United Nations A/HRC/38/51

General Assembly

Distr.: General
15 May 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 4
Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in Belarus

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the situation of human rights in Belarus, prepared pursuant to Council resolution 35/27. In his concluding report to the Human Rights Council, Miklós Haraszti, the Special Rapporteur on the situation of human rights in Belarus, describes an unchanged oppressive environment for the rights and freedoms of citizens. During the six years since the Human Rights Council established the mandate of the Special Rapporteur, Belarus has been governed by a purposefully repressive legal framework, aggravated by regularly recurring, centrally planned violent crackdowns on peaceful demonstrators, non-governmental organizations (NGOs), political opponents, human rights activists and independent media workers. Imprisonment of political opponents on trumped-up charges has been cyclically employed by the authorities. The denial of the right to life has continued through the regular application of the death penalty. The Government has not addressed the following entrenched systemic human rights shortcomings analysed in 2011 by the then United Nations High Commissioner for Human Rights: the absence of rule of law, the stifling of the expression of any dissenting view, the lack of media pluralism and the case-by-case authorizations-based regime of enjoyment of the right to the freedoms of association and peaceful assembly. The practice of depriving citizens of their civil and political rights continues to have a detrimental effect on the enjoyment of economic, social and cultural rights. Given that the human rights situation in Belarus continues to be marked by non-cooperation with the human rights mechanisms of the United Nations and non-compliance with their recommendations, the mandate of the Special Rapporteur needs to be renewed.

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I. Introduction

A. Background

1. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established in 2012 by the Human Rights Council in its resolution 20/13, on the basis of a report by the United Nations High Commissioner for Human Rights (A/HRC/20/8). The Council requested the mandate holder to report annually to it and to the General Assembly. The Council has since renewed the mandate five times, for one year each time, in resolutions 23/15, 26/25, 29/17, 32/26 and 35/27.

2. The present report is submitted to the Council pursuant to its resolution 35/27, covers the period 1 April 2017–30 April 2018, is based on information received up to the latter date, and is the current Special Rapporteur's last report to the Council, as his tenure ends on 31 October 2018.

3. The handling of human rights in the reporting period was marked by the routine use by the authorities of the entrenched oppressive legal and administrative regulations. In a potentially grave development, at the end of the reporting period, the National Assembly passed on first reading a bill on amendments to the law on the mass media and other legal texts, which, if promulgated, would eliminate all remaining freedom of expression online. The period was also marked by a renewed crackdown by law enforcement agencies on peaceful demonstrators, members of the political opposition, human rights defenders and independent journalists in March 2018, on the occasion of Freedom Day, prior to and during which more than a hundred individuals were arbitrarily arrested and detained.

4. In his previous report to the Human Rights Council (A/HRC/35/40 and Corr.1), the Special Rapporteur described the deterioration, in early 2017, of the human rights situation in Belarus, which, like the March 2018 crackdown, involved the severe repression of peaceful demonstrations against presidential decree No. 3 of 2015 on the prevention of social dependency. The decree financially targeted at least 470,000 individuals labelled as "social parasites" for not registering as employed for a minimum of 183 days per year. The demonstrations, which were held in Minsk and in numerous other cities throughout the country, were the largest since those organized in the wake of the December 2010 presidential elections, the violent repression of which prompted the United Nations to put the situation of human rights in Belarus under the scrutiny of the Special Rapporteur.

5. The Special Rapporteur analysed the cyclical nature of violent crackdowns on fundamental freedoms in Belarus, as illustrated by the repression of the March events after a brief period of resorting to fines instead of arbitrary arrests (A/HRC/35/40 and Corr.1). While daily public life in the country is hindered by an underlying system-wide and purposefully oppressive set of laws and by the acts by State officials, the authorities nevertheless regularly scale up repression throughout violent crackdowns in order to maintain pressure.

6. In his first report to the Human Rights Council (A/HRC/23/52), the Special Rapporteur analysed a series of shortcomings that the High Commissioner for Human Rights had identified a year previously. All of those shortcomings persist after six years of international scrutiny, and certain human rights issues have actually worsened, especially the situation of the media, political pluralism and legal provisions.

7. In his report to the thirty-second session of the Human Rights Council (A/HRC/32/48), the Special Rapporteur conducted an in-depth survey of compliance by Belarus with the recommendations of the United Nations human rights mechanisms, including the universal periodic review. The analysis showed the absence of any move towards the implementation of such recommendations, demonstrating a lack of political will on the part of the State party's authorities to improve the human rights record of Belarus.

8. The adoption, in October 2016, of an inter-agency plan for the period 2016–2019 for the implementation of recommendations made during the second cycle of the universal

periodic review of Belarus and by the treaty bodies,[1] and the heavy marketing around it, do not even mark the start of the process of recognizing the existence of long-standing human rights issues, as those are not addressed by the plan as analysed by the Special Rapporteur (see A/HRC/35/40).

9. Representatives of the State party's authorities attending conferences highlight results in the socioeconomic field and efforts to implement the Sustainable Development Goals. The Special Rapporteur deems it necessary to question the authorities about the absence of similar efforts, or at least the relaxation of the measures currently in force, when it comes to democratic values and fundamental freedoms as recognized in the Universal Declaration of Human Rights.

10. Belarus remains excluded from membership of the Council of Europe for retaining capital punishment in its Criminal Code and for conducting executions. In 2017, two executions were carried out, and four death sentences were handed down, according to the information available.

11. The absence of a national human rights institution, despite numerous recommendations to establish one in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), is solely due to the lack of political will to permit the establishment of a forum where citizens, civil society organizations, legal specialists and authorities can come together to build a legal and practical framework compliant with the human rights obligations of the country.

12. Similarly, the various elections, both presidential and parliamentary, held in the country for the past 20 years or so have prompted the independent external observers of the Organization for Security and Cooperation in Europe (OSCE) to make recommendations aimed at fundamental improvements. The authorities of Belarus have consistently completely ignored such recommendations. The only concession made to political pluralism in the past two decades was to permit two opposition candidates to sit in the National Assembly in September 2016. The Special Rapporteur recalls that presidential and parliamentary elections are scheduled to take place in Belarus in 2020. There are, however, reports that one of those elections could be organized in 2019. The international community should remain vigilant regarding the upcoming polls, and continue to demand the implementation of the recommendations of the OSCE Office for Democratic Institutions and Human Rights of the OSCE.

13. In the run-up to the twentieth anniversary of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), the Special Rapporteur reiterates the findings contained in his 2014 report to the General Assembly (A/69/307), namely that, almost 20 years after its adoption, the gap between the moral commitment to adopting the Declaration and its real implementation remains vast in Belarus. Like all the other States Members of the United Nations, Belarus had committed to implementing the values contained in the Declaration by complying with General Assembly resolution 53/144 in 2017. While recognizing that Belarus is not the only country to oppress human rights defenders, and that their situation is deteriorating (A/HRC/34/52), the Special Rapporteur underlines the fact that the harassment of defenders is government-driven, systemic and entrenched in the legal framework.

14. Regarding the causes of the reported systemic suppression of human rights, periodically enhanced by large-scale flare-ups of brutality on the part of law enforcement officials, the Special Rapporteur refers to his most recent report to the General Assembly (A/72/493). In the report, he focused on the powers amassed by the executive branch and of the incumbent President himself, and analysed the impact of the lack of separation of powers and rigged elections on the human rights situation.

[1] See http://mfa.gov.by/upload/doc/plan_all_eng.pdf.

15. The Special Rapporteur is of the view that the international scrutiny exercised by the Human Rights Council, the only body currently carrying out such work, is an invaluable tool for deterring attempts by the authorities of Belarus to further tighten their control over civil and political rights. In particular, the Special Rapporteur believes that the continued existence of his mandate is key to the survival of a nucleus of civil society organizations working on human rights issues.

B. Methodology

16. In his last year as the mandate holder, the Special Rapporteur had hoped that the State party's authorities would reply positively to his request to visit Belarus. However, that request, like those made in previous years, remained unanswered at the time of finalizing the present report.

17. The Special Rapporteur is grateful to the authorities of Belarus for having allowed him to enter the country in July 2017, at the invitation of the OSCE Parliamentary Assembly. Although not acknowledged by the State party's authorities as being on a country visit, the Special Rapporteur was able to meet with a number of civil society actors, human rights defenders, members of the political opposition and media representatives. He also attended the sentencing of a human rights defender, experiencing at first hand the dysfunctional nature of the judicial system (see A/72/493, para. 60).

18. The Special Rapporteur regrets that the authorities of Belarus did not take advantage of his presence in the country to engage at least on issues of potentially mutual agreement, thus missing an opportunity to showcase alleged progress regarding the Government's human rights record.

19. As in previous years, the Special Rapporteur, owing to his inability to conduct a proper in situ visit, based his assessment on the Government's statements and records and on the numerous reports he had received from civil society actors, human rights defenders, relatives of political prisoners and disappeared persons, diplomats and United Nations entities.

II. Legal framework and related developments

20. The enforcement of presidential decree No. 3 of 2015 was first announced as being postponed, and subsequently abandoned all together. However, the principle of stigmatizing and punishing individuals who refuse to benefit from jobs provided by the State on the basis of loyalty to the executive has not disappeared. Under the presidential decree, fines for such individuals would be replaced by denial of access to subsidized hot water, gas and heating, under Council of Ministers resolution No. 314 of 24 April 2018. Payment for those facilities would be due from 1 October 2019 onwards.[2] That situation would obviously have an adverse impact on the economic and social rights of large sectors of the population.

21. Media law amendments prepared by the presidential administration had been rubber-stamped on first reading in the National Assembly at the time of writing of the present report.[3] Those changes would bring about the serious, systemic deterioration of the already grave situation of freedom of expression online (see section IV (A) below).

III. Engagement with the international human rights system

22. During its ninety-fourth session, the Committee on the Elimination of Racial Discrimination considered the combined twentieth to twenty-third periodic reports of Belarus (CERD/C/BLR/20-23), on 30 November and 1 December 2017. The Special Rapporteur welcomes the engagement of Belarus with the Committee.

[2] See www.svaboda.org/a/29193768.html (in Belarusian).

[3] See https://rsf.org/en/news/belarus-media-law-could-get-even-more-repressive.

23. The Special Rapporteur also welcomes the submission by Belarus of its fifth periodic report under article 40 of the International Covenant on Civil and Political Rights (CCPR/C/BLR/5), and recalls that the report had been pending for 16 years. In October 2018, the Human Rights Committee would thus have the opportunity to review the level of compliance of Belarus with the provisions of the Covenant 21 years after having previously done so, on 30 October 1997.

24. The Committee against Torture was scheduled to review the compliance of Belarus at its sixty-third session in May 2018, on the basis of the fifth periodic report (CAT/C/BLR/5) submitted by Belarus in response to the list of issues adopted by the Committee in 2013 (CAT/C/BLR/QPR/5). The review would provide an opportunity to assess the prevalence of torture and ill-treatment in Belarus, particularly in prison facilities, and, more broadly, acts committed by law enforcement officials.

25. The Special Rapporteur devoted large sections of his most recent report to the Human Rights Council to the assessment and analysis of the inter-agency plan for the period 2016–2019 for the implementation of recommendations made during the second cycle of the universal periodic review and by the treaty bodies, approved by the Council of Ministers on 24 October 2016.

26. On the occasion of the twenty-sixth session of the OSCE Parliamentary Assembly, held on 5 July 2017 in Minsk, the inter-agency plan was presented by the President of Belarus himself as being the most important element of systemic efforts to ensure citizen's rights and freedoms as a whole.[4]

27. The plan, a list of activities mostly devoted to initiating institutional thinking about long-standing economic and social issues, falls far short of constituting a comprehensive national human rights action plan, as it ignores numerous fundamental recommendations made by various human rights mechanisms regarding civil and political rights. The Ministry for Foreign Affairs, which proclaims the indivisibility of human rights on its website,[5] has been unable to translate that principle into reality. According to information available at the time of drafting of the present report, there was no implementation report available on the 100 or so points contained in the plan.

IV. Human rights concerns

A. Freedom of opinion and expression, and freedom of the media

28. At the time of drafting of the present report, the Government was processing amendments to the law on the mass media, the Tax Code, the Administrative Offences Code and the Code of Execution Procedure for Administrative Offences, dealing with the regulation of the media, including web-based outlets. The amendments were passed by the National Assembly on first reading on 19 April 2018. If finally approved, the amendments would further curtail the freedoms of expression and information of all citizens, increasing the hurdles and intimidation faced by Belarusian independent journalists and online content contributors.[6]

29. The draft amendments would provide for additional administrative fines of up to €500 and €5,000 respectively for individuals or entities that produce or disseminate information while not registered as journalists or media outlets. Under other amendments to the law on the mass media, web-based outlets would be subjected to the existing State-run, permission-based registration procedure for print media. Any online publication, including social media, could therefore be banned if it were not run by registered journalists, and the author or publisher would be held liable under the above-mentioned amendments. The

[4] See http://mfa.gov.by/en/organizations/human_rights/.

[5] Ibid.

[6] See https://baj.by/en/content/baj-sent-its-comments-amendments-law-mass-media-parliament.

publishing entity might be closed down without a court order, and the decision would not be appealable.

30. The bill on amendments to the mass media law would also oblige online media outlet owners to introduce pre-moderation for all online discussion platforms. Especially egregious is the planned mandatory identification of persons posting materials or comments on such platforms. The amendments would extend the authorities' control over online discussions by allowing them to require, without any court order, platform owners to provide them with any data related to postings within five working days.

31. Unregistered media outlets and journalists already face difficulties in working, owing to article 22.9 (2) of the Administrative Offences Code, which provides for the administrative liability of anyone working for foreign media without accreditation. The Special Rapporteur has been calling for that provision to be repealed since the beginning of his tenure. The above-mentioned draft amendments would actually increase harassment against independent journalists through the introduction of vague concepts of production and dissemination, and through the granting, to police officers, of the power to prepare reports based thereon.

32. In the Special Rapporteur's view, those amendments constitute a continuation of the Government's erroneous response to those courageous journalists, bloggers and social media contributors, including simple users sharing information, who use the Internet to cover or discuss protests, pickets or any sort of unofficial political information, in a media environment where such opportunities have been closed down by decades of abusive policies. The amendments, if adopted, would perfect the systemic curtailing of freedom of expression, and allow the authorities to legally block the only remaining public space for free debate, the Internet.

33. The Internet and web-based media outlets have always been subjected to stringent controls (see A/71/394, paras. 47–57), including during the reporting period. One way of pressuring persons running independent websites is to block the websites temporarily, without having to resort to a court decision. For instance, in December 2017, the Ministry of Information blocked the popular news portal *belaruspartisan.org*. On 25 January 2018, access to the independent news website *charter97.org* was restricted in a similar way.

34. Bloggers and their followers are frequently harassed and closely monitored through a heavy-handed and costly system of surveillance. Siarhei Piatrukhin and Aliaksandr Kabanau were tried by Pinsk District Court on 12 March 2018 for having allegedly manufactured illicit media content that they had broadcast on YouTube. Interestingly, that was the first time that YouTube had been identified as a foreign media outlet. In February 2018, the apartment where popular 19-year-old blogger Stsipan Sviatlou lives with his parents was raided by the police, and his computer equipment was seized. Mr. Sviatlou had been posting videos on YouTube containing criticism relating to socioeconomic issues.[7]

35. The arbitrary detention of dozens of individuals, human rights defenders, political activists and journalists, even for short periods of time, prior to and during the 25 March 2018 rallies, illustrates what the Special Rapporteur described as a cyclical system of repression against those who hold and express views diverging from the official line.

36. The events of March 2018, during which at least seven journalists were arrested by the police, follow the same logic as those of March 2017, one of the worst years for independent journalism in Belarus since 2011 and the aftermath of the 2010 presidential election.[8] While, in 2016, the Belarusian Association of Journalists recorded 13 cases of short-term detention of journalists performing their professional duties, in 2017, that number rose to 101. In 12 of those cases, the journalists were arrested for 10–15 days: the maximum period of administrative detention. The bulk of those cases of detention occurred in March 2017, at the time of the mass protests in Belarus.[9]

[7] See https://charter97.org/en/news/2018/2/23/280618/.

[8] See https://baj.by/en/analytics/violations-journalists-rights-infographic-2009-2017.

[9] See https://baj.by/en/analytics/repressions-against-journalists-belarus-2017-shart.

37. In 2017, the authorities resumed the practice of prosecuting journalists for cooperating with foreign media outlets without accreditation. As a result, 69 fines were imposed on freelance journalists in 2017, more than the number imposed in the three previous years, and amounting to more than €25,000.[10]

38. The Special Rapporteur continued to receive information about the situation of journalists, especially those working for the media outlet Belsat, which is based in Poland but broadcasts in Belarusian in the territory of Belarus. Belsat journalists are a regular target of the authorities. There was hardly a month during the reporting period when a Belsat journalist was not arrested or fined and his or her material seized. On 10 July 2017, an independent journalist working for Belsat was declared guilty of forging illicit media content and fined. In August 2017, another five Belsat journalists were fined,[11] in addition to one in September 2017, four in December 2017 and another two in February 2018. Belsat cameraman, Andrei Kozel, who was covering the February 2018 local elections, was brutally arrested and fined for allegedly having violated the secrecy of the vote counting process.

39. The aftermath of the mass arrests and persecution of journalists in 2017 continued in 2018. Yuri Pavlovets, Dimitri Alimkin and Sergei Shiptenko, three Belarusian freelance journalists working for a number of Russian media outlets, who had been accused of collaborating with foreign media without accreditation and charged with the criminal offence of publishing content labelled as "extremist", were convicted in February 2018, after having spent a year in custody. All the accused were sentenced to five years' imprisonment, suspended for three years.

40. On a positive note, in 2017, distribution of eight independent newspapers (*Borisovskiye Novosti, Otdushina, Volnae Hlybokae, Hazeta Slonimskaya, Intex-press, Novy Chas, SNplus* and *ARCHE Pachatak*) through the State retail network resumed. Those publications had been excluded from the *Sojuzpechat* network (the national retail network for print media) and the *Belpochta* (national postal service) subscription service for 11 years.

41. Local private newspaper *Barysauskija Naviny* is a regular target of the authorities.[12] Its chief editor was tried on 1 December 2017 for publishing an article criticizing national policies. The trial followed a warning issued by the Ministry of Information on 20 November. After a second warning, the outlet could be closed.

42. The authorities continue to treat independent artists as political opponents and to exercise tight control over artistic expression, thus violating cultural rights. For instance, pop music singer Ales Dzianisau was banned from playing at a concert in July 2017 by the department of ideology, culture and youth affairs of the Executive Committee of Minsk, on the basis that he lacked talent.[13] Similarly, police raided a rock concert on 14 October 2017, reportedly in a brutal manner, and many participants were detained for a brief period.

43. Famous Russian philosopher Piotr Riabov, who was giving a private lecture indoors on 9 October 2017 in Hrodna, was arrested by the police, together with 20 other persons attending the event. He was sentenced to deportation, subsequently deported to the Russian Federation and banned from re-entering Belarus for 10 years.[14]

44. At the same time, the State-run media continued to be used by the authorities to campaign against human rights defenders and election observers. Ten days before the local elections of 18 February, two State-owned television channels broadcast the news that the campaign "Right to choose 2018", run by independent observers, was biased. Furthermore, 12 days before the local elections, the President dismissed the heads of three State-owned

[10] See https://baj.by/en/analytics/fines-journalists-violating-article-229-administrative-code-chart-updated.

[11] See http://spring96.org/en/news/87741.

[12] See https://freedomhouse.org/report/nations-transit/2010/belarus.

[13] See https://charter97.org/en/news/2017/7/25/257547/.

[14] See https://belarusdigest.com/story/new-repressions-in-belarus-the-art-of-staying-below-western-radars/.

media outlets: the *Sovetskaya Belorussiya/Belarus Segodnya* newspaper, the national television and radio broadcasting company and the *Stolichnoe Televidenie* television channel, which is now headed by the former First Deputy Minister for Information. In a similar attempt to control public opinion prior to the poll, a candidate of the Belarusian Christian Democracy party was excluded from standing for office for having distributed material during a gathering in the context of the campaign.[15]

B. Freedom of association

45. The authorities of Belarus consider that the exercise of the freedom of association constitutes a potential threat to the "stability" of the country and have, therefore, created a politically guided bureaucratic system to register any entity. The right to create associations is recognized under article 36 of the Constitution. The establishment and activities of civil society associations are, however, restricted by the provisions of article 7 of the Civil Society Associations Act, on the grounds of protecting the State against propaganda inciting war or extremism and against the activities of unregistered civil society associations. By arbitrarily equating the activities of unregistered non-governmental organizations (NGOs) with propaganda inciting war and extremism, the Ministry of Justice can severely restrict the actual exercise of the freedom of association.

46. The Special Rapporteur and other mechanisms have repeatedly identified legal restrictions and State practices that are contrary to the provisions of the International Covenant on Civil and Political Rights pertaining to the freedom of association. In particular, the registration process is so cumbersome that it discourages NGOs from resubmitting their applications, giving rise to a worrisome trend. While the number of registered associations is allegedly on the rise (see CCPR/C/BLR/5, p. 362), the Special Rapporteur is not aware of any new registrations of human rights-related organizations or political parties.

47. The fate of unregistered organizations (the number of which is falling only because they give up attempts to register due to the hostile process involved) has long been a subject of human rights recommendations. Under article 193-1 of the Criminal Code, any activity undertaken by or in connection with an unregistered entity is punishable by up to two years' imprisonment. The mere presence of that provision in the Criminal Code, which, according to the Government has not been used for many years (ibid, para. 369), deters attempts to conduct unauthorized activities. De jure criminalization may be arbitrarily turned into de facto criminalization at any time.

48. The Belarusian Christian Democracy party submitted its seventh application for registration to the Ministry of Justice on 22 January 2018, and on 6 April was again refused registration, based, as usual, on shortcomings relating to the registration data. The party filed a complaint with the Supreme Court on 27 April.[16] The Special Rapporteur is concerned about allegations of threats, made since February 2018, against local members of the party to force them withdraw their names from the application.[17]

49. On 11 October 2017, the Social Christian Movement was refused registration for the second time, again over issues regarding the application that could have easily been resolved.

C. Freedom of peaceful assembly

50. With the severe handling of the March 2017 demonstrations, the authorities renewed their violent repression of peaceful public gatherings. Such an approach was again used, to

[15] See https://belapan.by/archive/2018/02/13/942571/ (in Russian).

[16] See http://bchd.info/14065-ministerstva-yustycyi-belarusi-admovila-u-registracyi-bhd.html (in Belarusian).

[17] See http://spring96.org/en/news/89314.

varying degrees of intensity, in the context of other rallies, most recently during the Freedom Day marches in March 2018.

51. As on previous similar occasions, the authorities conducted preventive detentions among the suspected leaders of the protest movement, in an attempt to deter other potential participants in rallies. Such detentions target political opponents of the Government in particular. At rallies, law enforcement officials, sometimes in plain clothes, arrest participants in a targeted manner but without legal grounds. The events surrounding the Freedom Day march testify to this approach. On 21 March 2018, the police prevented at least two persons from leaving their apartments on the grounds that they intended to organize an unauthorized rally. On the day of the march, the police arrested several dozen participants, in particular human rights defenders and staff of the respected Viasna Human Rights Centre. The Special Rapporteur recalls that, in March 2017, the premises of the Viasna Human Rights Centre was searched, and a number of the Centre's staff members were arrested and, in some cases, subjected to ill-treatment.

52. The procedure for obtaining authorization for holding a rally is as cumbersome and prohibitive as that for obtaining registration for an association. The authorities may propose alternative locations for demonstrations that would render the event meaningless, or put forward petty grounds for refusing permission to hold a peaceful gathering. For instance, in August 2017, two trade unionists planning to hold two pickets in support of their fellow unionists accused of tax evasion could not hold one of them as scheduled in front of a former stadium, as to do so, they would have needed a contract with the Department of Utilities and the health-care service. Similarly to article 193-1 of the Criminal Code on unregistered organizations, article 23-34 of the Administrative Offences Code provides for up to 25 days' imprisonment and heavy fines for anyone participating in, organizing or covering an unauthorized public gathering. Administrative detentions can be accumulated to exceed the maximum number of 25 days. For instance, as a consequence of his participation in and coverage of the March 2017 protests, a video blogger based in Homiel was sentenced four times, respectively to 13, 5, 7 and 7 days.

53. Activists who participated in protests organized by the Belarusian National Congress in Minsk and other cities on 1 May 2017 were detained and heavily fined.

54. Although observers might have anticipated smoother handling of the right to peaceful assemble following the holding of a session of the OSCE Parliamentary Assembly in Minsk in early July 2017, in that same month, a Minsk court sentenced three individuals to periods of administrative detention and heavily fined three others who participated in a picket to protest against the "White Legion case", which itself was dismissed by the authorities at a later stage.

55. The months of August and September 2017 were a particularly difficult period for persons wishing to exercise the freedom of peaceful assembly, with the administrative courts severely punishing individuals daring to publicly disagree with State policies. For example, one teenage girl received a warning from the local commission for juvenile affairs on the basis of article 23-34 of the Administrative Code for having participated in an unsanctioned demonstration. Activists who protested against the Zapad 2017 joint Belarus-Russian Federation military exercises were detained and fined.[18]

56. The Special Rapporteur recalls that one-person pickets are treated as mass public demonstrations.

D. Situation of human rights defenders and civil society

57. Human rights defenders were one of the main targets of the violence perpetrated by the authorities in the context of the March 2017 demonstrations. According to the local department of the Investigative Committee, the repression was orchestrated by the State Security Agency and implemented by top-ranking police officials.[19] The Special Rapporteur

[18] See http://spring96.org/en/news/87960.

[19] See http://spring96.org/en/news/88849.

recalls that Viasna Human Rights Centre was targeted by the Government through a violent raid, the arbitrary arrest and detention of a number of its members and the confiscation of material.

58. The aftermath of the March 2017 events was felt into the first quarter of 2018, despite the authorities allegedly attempting to reach out to the human rights community within Belarus, in particular with regard to the inter-agency plan on human rights. One of the lawyers working for Viasna Human Rights Centre attempted to bring a criminal case against police officials who allegedly beat him on 25 March 2017. His demand was rejected by the local department of the Investigative Committee in August 2017, a decision confirmed by the Minsk Prosecutor's Office in March 2018.

59. A number of NGOs have reported that the Ministry for Foreign Affairs has organized meetings to discuss the implementation of the inter-agency plan on the implementation of universal periodic review recommendations, but that no such invitation has arrived from other government agencies, justifying the criticism that the plan is meant for promotion with foreign partners. Such gatherings, although perhaps acknowledging the existence of human rights defenders, do not provide them with an opportunity to engage in dialogue and discuss systemic issues. Throughout his tenure, the Special Rapporteur has highlighted the absence of any channels of communication between the Government and human rights defenders as being one of the main shortcomings regarding the human rights record of Belarus, and as being a key reason for the lack of improvement of human rights governance. The mere toleration of some human rights groups, such as Viasna Human Rights Centre, which somehow manage to operate without accreditation, is also used to pressure groups and the whole human rights movement within the country. Although the authorities did not interfere in the holding of a one-off civil society forum, which took place on 4 July 2017 on the margins of the session of the OSCE Parliamentary Assembly, they refused to take part in or address it.

60. Human rights defenders continue to be intimidated. For instance, on 22 October 2017, a Viasna Human Rights Centre volunteer was searched and detained for some hours as she was returning from a meeting in Vilnius. Another anti-discrimination activist based in Ukraine was banned from entering Belarus in November. In August, four anti-death penalty activists, who had been distributing leaflets in the streets of Minsk received telephone calls from the police requesting them to explain their actions.

61. The harassment of human rights defenders took a new course after the March 2017 demonstrations. A number of lawyers defending human rights activists, including members or supporters of Viasna Human Rights Centre, have been encountering hurdles in the course of their work since then, with some of them receiving threats of criminal prosecution. [20] In September 2017, the Ministry of Justice reportedly ordered the extraordinary recertification of 25 lawyers belonging to the bar associations of Minsk and Mogilev, which resulted in the revocation of the licences of two lawyers. About 60 lawyers were also awaiting regular recertification.[21] The Special Rapporteur recalls that the exercise of the profession of lawyer in Belarus is strictly controlled by the authorities, who conduct "recertification" exercises every five years.

62. The Special Rapporteur welcomes the return to Belarus of prominent human rights lawyer Alena Tonkachova, a Russian national who has worked in Belarus for about 30 years and who directs the Legal Transformation Centre. She had been deported from Belarus in 2015 for three years on trumped-up charges. Her repeated calls to be permitted to re-enter Belarus during the period of her ban had been ignored by the authorities.

63. Administrative and police harassment is also directed towards trade unionists who try to defend their rights. During the last two weeks of January 2018, as many as 200 representatives of the Belarusian Radio and Electronics Workers' Union were questioned in the context of the "Trade union case", an allegedly fabricated tax evasion case that was

[20] Ibid.

[21] See https://defendlawyers.wordpress.com/2017/09/05/belarus-human-rights-activists-alarmed-over-new-wave-of-harassment-against-lawyers/.

launched against the head of the Union, Henadz Fiadynich. In fact, the case centres around money received from one of the Union's European partners. The offices of the Union were searched in August 2017.

64. The Special Rapporteur notes the recommendations made by the Committee on the Elimination of Racial Discrimination during its 2017 consideration of the combined periodic reports of Belarus that Belarus consult and engage in dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination (CERD/C/BLR/CO/20-23). The Special Rapporteur hopes that the above-mentioned recommendation will be taken up by the authorities.

E. Torture and other cruel, inhuman or degrading treatment or punishment

65. In Belarus, ill-treatment amounting to torture is a systemic tool that serves the overall oppressive legal framework. Domestic law still does not provide for a definition of torture, despite repeated calls for action in that regard by human rights mechanisms, including the Committee against Torture. The Special Rapporteur hopes that the consideration of the fifth periodic report of Belarus by the Committee against Torture in April and May 2018 will be instrumental in advancing official acknowledgement of the issue and the much awaited legal and practical measures to prevent torture and ill-treatments and repair their effects.

66. There were numerous reports of ill-treatment and violence, some of them possibly amounting to torture, during State-guided repression of the 2017 rallies. A number of victims of ill-treatment by the police submitted complaints. The Special Rapporteur recalls that, in the absence of a definition of the crime of torture in the Criminal Code, individuals can only resort to the provision dealing with abuse of authority contained therein.

67. According to reports received by the Special Rapporteur, the prosecutors' offices in Minsk and in other cities appeared to have looked into allegations of ill-treatment during the rallies of March and May 2017. An emblematic case concerns Sirahei Tkachenka, who was beaten by the police on 9 May. His request to launch a criminal investigation was rejected. Subsequently, he appealed successfully to the local Prosecutor's Office. The Prosecutor decided that the investigation had been conducted in an unlawful manner, and requested further information from the local department of the Investigative Committee. Similarly, in the case of Aleh Bahdanau, the Minsk Prosecutor's Office decided, in December 2017, to overturn an earlier decision of the Investigative Committee to discontinue a criminal investigation into the cause of Mr. Bahdanau's death. However, that approach does not appear to be uniformly applied: the Prosecutor's Office of Piersamajski District, Minsk, upheld the decision of the local department of the Investigative Committee not to launch a criminal investigation into reports of ill-treatment by the police of Aliaksei Loika, a Viasna Human Rights Centre lawyer. The Special Rapporteur hopes that the Prosecutor's Office will continue its attempts to carefully monitor all the activities and decisions of all the departments of the Investigative Committee, the mandate of which is extremely wide-reaching,[22] and will support victims' claims for justice, including those emanating from human rights defenders.

68. A year after the March 2017 events, the Special Rapporteur received similar allegations of random acts of violence and ill-treatment by police and prison officials in the context of the March 2018 Freedom Day rallies.[23] In another case of uninvestigated violence, a Belsat journalist was allegedly beaten by four police officers in February 2018 while covering local elections. In response to the pervasive nature of ill-treatment and to the absence of State policies to tackle it, Viasna Human Rights Centre launched a social media campaign to give visibility to the issue.

[22] See A/72/493, para. 30.

[23] See http://www.omct.org/human-rights-defenders/urgent-interventions/belarus/2018/03/d24793/.

69. The fact that, in Belarus, victims have no recognized right to ask for an examination by an independent doctor or expert is caused by the reluctance of the State to acknowledge that torture and ill-treatment may occur. The absence of a national preventive mechanism or any other effective mechanism to monitor the conditions in places of deprivation of liberty (pretrial and detention centres) and the lack of effective legal remedies for victims of acts of ill-treatment or torture highlight the lack of will to seriously tackle what is a systemic issue. The authorities pointed to the existence of a so-called monitoring mechanism: however, that mechanism does not respect the basic principles set out by the Committee against Torture (see CAT/OP/12/5), as it is under the full control of the Ministry of Justice, which decides on its composition, and has a narrow mandate. Independent NGOs encounter regular refusals when they apply for membership of the mechanism. The Special Rapporteur also underlines that the recent decisions to revoke the licences of certain lawyers further affect the already meagre channels of recourse for victims to complain about acts of ill-treatment and torture by officials.

F. Arbitrary arrest and detention, political prisoners and enforced disappearances

70. At least 110 individuals were arbitrarily arrested and detained for various periods of time prior to and during the rallies organized by civil society organizations to commemorate the one-hundredth anniversary of the independence of Belarus on 25 March 2018. The authorities adopted their usual approach to persons wishing to peacefully demonstrate: they intervened upstream by arresting organizers, influencers and participants during and after the gatherings. Given the scale of the 2018 Freedom Day marches, the ratio of arbitrary arrests and detentions equalled those of February and March 2017, during which more than a thousand individuals were arrested, several of whom were jailed.

71. At least five journalists covering the rally in Yakub Kolas Square, Minsk, and six members of Viasna Human Rights Centre, were arbitrarily arrested and detained. The rally had been called for by a famous member of the political opposition and former candidate for the presidency, Mikhalay Statkevich, who was arrested at his home on the eve of the event and detained for 10 days.

72. Mr. Statkevich has regularly been the target of State harassment of political opponents. The release of a number of political prisoners in the course of the past two years, although without full rehabilitation, was compensated by the frequent arrest or rearrest of others for short periods of time. A typical example is Belarusian Radio and Electronics Workers' Union accountant and local leader, Ihar Komlik, who was detained during the period 5 August–2 October 2017 on the basis of trumped-up charges. Although currently at liberty, Mr. Komlik and fellow trade unionist Mr. Fiadynich continue to face charges, the deadline for the corresponding investigation having been extended to 1 May 2018. On April 27, Mr. Fiadynich was summoned to appear before the Investigative Committee, and was informed that the size of the team investigating the "Trade union case" had been increased from two to eight officials. From a technical point of view, the investigation was supposed to end on May 1, but given the changes to the roster of the investigative team, it is likely that the deadline for the case will be extended once again.[24]

73. At the time of completion of the present report, there were still two political prisoners in Belarus, Dzimitry Paliyenka and Mikhail Zhamchuzhny. Amnesty International declared Mr. Paliyenka, who suffers from asthma and is currently being denied appropriate treatment, to be a prisoner of conscience on 22 August 2017.[25] The Special Rapporteur shares the concerns expressed by Belarusian human rights defenders regarding the deteriorating situation of Mr. Zhamchuzhny, whose health and physical integrity are affected by harassment by prison and judicial officials, and by inappropriate decisions, such as punishing him for not dusting the table in his prison cell. Between August 2017 and the

[24] See http://praca-by.info/all-news/item/5536-delo-profsoyuzov-sledstvennaya-gruppa-uvelichena-s-2-do-8-chelove (in Russian).

[25] See https://www.amnesty.org/en/documents/eur49/6984/2017/en/.

time of completion of the present report, Mr. Zhamchuzhny received as many as 24 penalties.

74. Fourteen individuals were arrested during the March 2017 events for having allegedly created an illegal armed group (the White Legion case) and detained. By the end of June 2017, on the eve of the OSCE Parliamentary Assembly session, all of those persons had been released, although the charges against them had not been dropped. The criminal case in their regard was closed on November 2017. Their appeals to the courts for compensation for moral harm caused by their illegal pretrial detention were all rejected.

G. Death penalty

75. According to information available, two individuals were executed in Belarus in 2017 and another six are currently on death row. The family of Kiryl Kazachok was only informed in March 2018 that he had been executed in October 2017, having been sentenced in 2016.[26] Siarhei Vostrykau was executed in April 2017, after spending 11 months on death row. The Special Rapporteur joins members of the international community who regularly condemn Belarus for conducting executions, when the authorities could so easily adopt a moratorium on the practice or commute death sentences into life imprisonment.

76. Death sentences were most recently handed down in Belarus on 20 January 2018, by Minsk City Court in the cases of Viachaslau Sukharka and Aliaksandr Zhylnikau. Those decisions were the first death sentences to be issued by that court since at least 2009. Both of those defendants had initially been sentenced to life imprisonment, but, following an appeal to the Supreme Court, which had sent the case for retrial, Minsk City Court sentenced them to death.

77. There are reports that the Belarusian parliamentary working group on the question of the death penalty resumed its work in 2017. The Special Rapporteur is, however, unaware of any concrete developments in that regard. Rumours that the President might hold a referendum on the issue failed to materialize. In an interview with ONT TV, the Chair of the Central Election Commission, Lidia Yermoshina, referring to the intentions of the President, dismissed "speculation" about a referendum on constitutional changes in the near future. The Chair noted that some aspects of the Constitution needed to be modernized, but that, where outdated clauses did not interfere with the everyday functioning of society, it was better to opt for stability and not initiate a constitutional referendum.[27] The President himself has shown no leadership on the matter, often referring to the public support the death penalty allegedly enjoys in order to close down any positive development in that regard.

78. The Special Rapporteur recalls that Belarus is the only country in Europe and the only former Soviet republic to retain the death penalty. The overall judicial system and the way in which executions are carried out paint a grim picture of the rule of law in Belarus, and entail a number of violations of basic rights for those convicted and for their relatives. The secrecy surrounding executions, and the fact that no details of executions or of places of burial are given to the families also amount to torture,[28] and contravene paragraph 7 (c) of General Assembly resolution 71/187 on a moratorium on the use of the death penalty.

H. Local elections of February 2018

79. Local council elections to select 18,110 representatives in 1,309 *oblasts*, large cities and villages were held as scheduled on 18 February 2018. As for previous polls, neither the way in which they were conducted nor their results were transparent, and the authorities committed a number of human rights violations in that regard.

[26] See https://dp.spring96.org/en/news/89411.

[27] See http://ont.by/news/our_news/lidiya-ermoshina-prezident-vnyos-polnyyu-yasnost-vo-vse-razgovori-referendy (in Russian).

[28] See, for example, *Schedko v. Belarus*, (CCPR/C/77/D/886/1999).

80. A month before the polls, the Chair of the Central Election Commission had clarified that amendments to the Electoral Code could be made only once the Constitution had been amended.[29] While the Government could have used that occasion to test implementing at least some of the long-standing recommendations made by the OSCE Office for Democratic Institutions and Human Rights on the occasion of previous polls, the authorities continued to intimidate candidates by, for instance, videotaping their meetings, conducting defamation campaigns, manipulating lists to ensure the loyalty of candidates, inflating turnout figures and violating media freedoms. Journalists and bloggers were expelled from polling stations, sometimes violently,[30] and two major news websites were blocked before the elections (see section VI (A) above on media freedom). Members of the political opposition are often refused registration as candidates on the basis of petty grounds, such as small inaccuracies on the corresponding forms. However, some of the appeals lodged against such decisions have been successful.[31]

81. Despite minor improvements in, for instance, the allocation of locations to hold campaign events, the opposition, which, in September 2016, was permitted to send two representatives to the otherwise entirely pro-government National Assembly, the February local elections did not bring even partial concessions. According to the information available to the Special Rapporteur, only one opposition candidate obtained a seat, in a village council. The way in which the February 2018 elections were held should not only be seen as a continuation of the abuse experienced at previous elections, but also as a rehearsal for the nationwide mechanism used to thwart the right to free and fair elections, ahead of the presidential and parliamentary elections scheduled for 2019 and 2020 respectively.

82. The Special Rapporteur was pleased to see that two independent groups, Human Rights Defenders for Free Elections and Right to Choose 2018 (a coalition of opposition parties), tried to exercise their right to observe the elections. Both groups reported on their lack of access to the premises where vote counting was being carried out. The Right to Choose 2018 media centre installed for the election was closed following pressure by the State Security Agency on election day. Some of the members of Right to Choose 2018 and other activists, who were filming and livestreaming events on social media, were jostled by the entourages of the pro-government candidates: other activists were detained by the police for several hours and one was sentenced to seven days in detention. The Special Rapporteur welcomes the courage and efforts of those persons who attempted to livestream the elections, a first in Belarus.

I. The rule of law and the independence of judges and lawyers

83. As demonstrated by the Special Rapporteur in his previous reports, there is virtually no rule of law in Belarus, owing to the extent of the power of the executive branch over the National Assembly, the judiciary and legal professionals. On 25 January 2018, for instance, President Lukashenko met with the Chair of the Lower Chamber of the National Assembly to discuss the Assembly's potential, and to find out whether it contained promising people.[32] The only reported marginal progress, which, however, needs to be fully confirmed with regard to facts and dates, is a number of requests by certain Prosecutor's Offices to further investigate allegations of police violence (see paragraph 67 above).

84. The latest developments in that regard concern the reprisals and intimidation carried out by the authorities against independent lawyers who defend human rights activists, especially those who were involved in the rallies of February and March 2017 and in the "White Legion case". The mere fact that the Minsk City bar association removed one of its members, Hanna Bakhtsina, in absentia and without prior notice, on the basis of her lack of

[29] See https://www.svaboda.org/a/29089258.html (in Belarusian).

[30] See https://rsf.org/en/news/journalists-bloggers-barred-vote-count-belarus.

[31] See https://spring96.org/files/misc/local_elections_2018_final_report_en.pdf.

[32] See http://president.gov.by/en/news_en/view/meeting-with-chairman-of-house-of-representatives-vladimir-andreichenko-17940/.

professional skills, and that 60 lawyers had to undergo a recertification process, testifies to the denial of the right to be defended by a lawyer in Belarus.

85. The Special Rapporteur recalls that the authorities conducted a similar recertification exercise in 2011 for legal counsels who were defending individuals accused of rioting during the period of intense repression in the wake of the December 2010 presidential election. The recent attempt to demand recertification, and to ban or threaten to ban lawyers (by issuing conditional certification), is another feature of the cyclical oppression of human rights in Belarus.

86. As during previous reporting cycles, the Special Rapporteur continued to receive examples of disproportionate sentences and fines against those who had criticized the official narrative. For instance, an activist who tried to display a banner on a statue of Lenin in the city of Lida was held for two months without trial, and subsequently sentenced to one year's imprisonment in September 2017.

87. The Special Rapporteur notes that Belarus dropped by 11 places in the 2017 democracy index of *The Economist*, ranking 138th out of 167 countries.[33]

88. During its consideration of the Belarus combined periodic reports in late 2017, the Committee on the Elimination of Racial Discrimination expressed concerns about the extent of the powers of the President over the judiciary (see CERD/C/BLR/CO/20-23, para. 21).

J. Economic and social rights and conditions of work

89. Forced labour remains the most visible violation of economic and social rights in Belarus. That practice has been denounced by the Committee on Economic, Social and Cultural Rights and the International Labour Organization, which have made several recommendations to eliminate it. Belarus still has to address the issue, both in its legislation and its practices, notably with regard to *subotniks* (days of "voluntary" unpaid work) and participation in activity therapy centres.

90. The obligation, for instance, to participate in harvesting on State-owned farms or in street cleaning sessions, is regularly applied to factory workers, civil servants and schoolchildren, and is disguised as strong encouragement by the authorities. The economy of Belarus is centralized in nature, controlled by the President and his administration and largely underperforming, allowing for the above-mentioned labour violation to be praised as patriotic. Such practices are regularly monitored by the President himself, who, for instance, publicly demanded that those responsible for bringing in the harvest in Gomel oblast untimely in the second half of 2017 be punished. In November 2017, a Viasna Human Rights Centre lawyer denounced the decision of the local executive committee of Homiel to send teachers, students and employees to harvest flax: no measures were taken in that regard. Similarly, attempts to launch an investigation against those who decided to send schoolchildren to harvest potatoes in Maladziečna District in September 2016, during which time 13-year-old Viktoryia Papachenia died when hit by a truck, were rejected by the Prosecutor's Office in December 2017.

91. The Special Rapporteur recalls that the large-scale demonstrations of February and March 2017 were directed against presidential decree No. 3 of 2015, which provided for the financial liability of any individual who had not worked for 183 days in a year. The Government estimated the number of individuals concerned at approximately 470,000. The decree in itself was a violation of economic and social rights, as it was intended to punish anyone who refused to work for the almost entirely State-driven economy, therefore increasing the unemployment rate and becoming a "social parasite" according to the government narrative.

92. Faced with heavy internal and international criticism regarding presidential decree No. 3 of 2015, the President suspended its implementation and asked the Government to

[33] See https://www.eiu.com/topic/democracy-index.

prepare an alternative text. Hence, presidential decree No. 1 of 2018 on population employment assistance measures was adopted on 21 January, allegedly to help citizens find jobs and to encourage self-employment. However, in essence, the new decree is similar to its precursor and states that all able-bodied unemployed citizens will have to pay for a number of social and public services that are normally heavily subsidized by the State. According to the Ministry of Labour, approximately 250,000 persons are targeted by the new decree and may still be officially labelled as "antisocial", a term that was previously only used to designate alcoholics but that may be applied by local authorities to anyone with an antisocial lifestyle.[34] Victims of such labelling may be sent to medical labour camps. Encouragement to work actually takes the form of threats to cut social services for those not employed under the rules of what is described as "legal employment".

K. Discrimination

93. Despite several recommendations to adopt a specific anti-discrimination text, the Belarusian legal framework continues to lack a comprehensive provision prohibiting discrimination on the grounds of race, religion, sexual orientation and gender identity, language, political conviction or physical or mental disability. The Special Rapporteur continues to receive information on cases of discrimination and regrets that victims have no legal remedies at their disposal.

1. Racial discrimination

94. The Committee on the Elimination of Racial Discrimination considered the twentieth to twenty-third combined periodic reports of Belarus during its ninety-fourth session, on 30 November and 1 December 2017. The positive developments the Committee noted since its previous consideration of the eighteenth and nineteenth periodic reports of Belarus in 2013 relate only to legal changes, including the ratification of treaties dealing with trafficking in persons.

95. The Committee reiterated the concerns it had expressed during previous considerations of periodic reports of Belarus, namely the continuing absence of a legal definition of, and provisions prohibiting, racial discrimination. During its dialogue with the Committee, the delegation of Belarus indicated that Belarus was examining the need to introduce such legal provisions (see CERD/C/SR.2603, para. 8). The Special Rapporteur recalls that examination of the need for legal changes is a recurrent feature of the action plan on human rights, and notes that, in the case of racial discrimination, no progress regarding such examination can be seen. The Committee also reminded Belarus of the need to have in place comprehensive legislation criminalizing hate speech.

96. The Committee devoted a large part of its time to the situation of Roma, especially regarding racial profiling by State agents, and the discrimination they face in employment, particularly in the context of policies combating "social parasitism".

2. Gender

97. In his previous reports, the Special Rapporteur described the entrenched discrimination that women face in Belarus. Patriarchal stereotypes, amplified by State policies and official positions and speeches, combined with the absence of specific legislation on gender equality, have allowed little space for improvement. On the occasion of Women's Day 2018, President Lukashenko issued greetings to women, thanking them for their wisdom, care of children and youth, energy and diligence, and for maintaining comfort and harmony in the home. He added that their femininity and charm made others'

[34] See https://finance.tut.by/news579832.html (in Russian).

lives more beautiful and exciting.[35] Three days earlier, President Lukashenko had appointed 21 new high-level administrative staff members, with no women among them.[36]

98. The Special Rapporteur recalls that, during its consideration of the eighth periodic report of Belarus in October 2016, the Committee on the Elimination of Discrimination against Women reiterated most of the recommendations it had made five years earlier (CEDAW/C/BLR/CO/7). The Special Rapporteur recalls that Sustainable Development Goal 5 deals with gender equality and that, with the concluding observations of the Committee (CEDAW/C/BLR/CO/8) and other relevant mechanisms, the Government of Belarus has a full toolbox with which to achieve that Goal.

3. Persons with disabilities

99. Belarus was the last European country to sign the Convention on the Rights of Persons with Disabilities, in 2015, ratifying it and its Optional Protocol in 2016. The initial report of Belarus to the Committee on the Rights of Persons with Disabilities is due to be submitted by 29 December 2018.

100. The Special Rapporteur hopes that the situation of the approximately 555,000 officially recorded individuals (about 6 per cent of the population) receiving a disability pension will significantly improve. Such progress should not only translate into enhanced financial support but also into better accessibility to their environment, to the labour market and other fundamental aspects of daily life.

101. Specialized NGOs report that progress on an accessible environment, especially regarding cultural and other facilities, has been slow or inadequate, but that there have been good discussions on the creation of quotas for persons with disabilities in companies. The Special Rapporteur commends NGO staff members and disability rights activists for their efforts regarding visibility and their creativity when carrying out advocacy work, and hopes that the Government will establish a dialogue with them.

4. Lesbian, gay, bisexual, transgender and intersex persons

102. The authorities of Belarus continue to refuse to allow lesbian, gay, bisexual, transgender and intersex persons to exercise a number of rights. Same-sex relationships are stigmatized and civil society organizations working on related issues repeatedly have their requests for accreditation rejected. The inter-agency plan for human rights does not contain any recommendation aimed at ending discrimination against lesbian, gay, bisexual, transgender and intersex persons, thus failing to acknowledge what is a part of the reality of Belarusian society.

103. Law No. 362-729 on the protection of children from information harmful to their health and development, which was signed by the President in May 2016, entered into force in July 2017. Under the law, any information (described in the text of the law as "propaganda") that could affect the institutions of the family and marriage is prohibited.

104. Over the past 10 years, the public space for lesbian, gay, bisexual, transgender and intersex persons has shrunk sharply. Minsk previously hosted a gay pride march in the early 2000s, but no such gathering has taken place since 2010, owing to the absence of official authorization, a factor that spreads fear among would-be organizers of such events.

V. Conclusions and recommendations

105. **The findings for the period under review show no improvement of the human rights situation in Belarus. The effects of the continuous application of an oppressive regulatory and punitive framework were aggravated by recurring violent crackdowns on those exercising the right to peaceful assembly, such as in February and March**

[35] See http://president.gov.by/en/news_en/view/womens-day-greetings-18257/.

[36] See www.belarus.by/en/government/events/belarus-president-makes-new-appointments_i_75599.html.

2017 and March 2018. New amendments to media laws threaten further harsh restrictions to freedom of expression online.

106. On the occasion of his previous report to the Human Rights Council, the current Special Rapporteur deplored the lack of any meaningful progress on systemic human rights issues since the establishment of his mandate: issues which the High Commissioner for Human Rights had previously highlighted in 2011. The purposefully oppressive legal framework, the structural absence of the rule of law and the blatant lack of consideration of the recommendations of human rights mechanisms testify to the freezing of fundamental freedoms in Belarus. During his period in office, the Special Rapporteur has demonstrated that the human rights record of Belarus could easily be improved if there were to emerge, at the internal level, political will to utilize the ready-to-use toolbox provided by the recommendations of the human rights mechanisms, including the universal periodic review, over more than 20 years.

107. As no tangible progress on systemic issues has been achieved, the Special Rapporteur is of the view that there is no reason to discontinue the international scrutiny of the human rights situation in Belarus, all the more so given that no regional scrutiny is applicable owing to the exclusion of Belarus from membership of the Council of Europe because of the retention in the Criminal Code of the death penalty and its regular application.

108. While members of the international community have constantly reminded Belarus of the need to comply with its international obligations, and to implement the recommendations of the human rights mechanisms, the State party's authorities do not even acknowledge the existence of civil and political human rights issues. While the State party's authorities claim to have made progress on social rights, in fact, their repressive handling of civil liberties also affects social and economic rights, as the "social parasitism" policies show. The exercise of civil and political rights is described as a threat to "social stability", and their repression has been presented to some partners as being necessary in order to avoid political instability amid geopolitical tensions in the region.

109. The human rights record of Belarus, which has gradually worsened since 1996, has shaped the lives of several generations of Belarusians. A 22-year-old in Belarus has never experienced free and fair elections, does not know what the independence of the judiciary and the separation of powers mean in reality, fears to publicly express views that are critical of government policies, does not have free access to different media or to a diverse culture, finds it normal to undertake forced labour at the weekend and has grown up with patriarchal stereotypes about women and men. Amid the continuing vilification of, and prohibitive restrictions on the work of human rights defenders, political, cultural and environmental activists and independent journalists in the country, the persistence of such actors must be praised, protected and encouraged. The Special Rapporteur deems it vital for the situation of civil society activists to continue to provide international support for them through the present mandate.

110. Attempts by Belarus to present alleged progress made regarding its human rights record through, for instance, the cyclical release of political prisoners, the granting of permission to two token opposition members to be present in the National Assembly, or the adoption of an inter-agency plan on human rights without tackling any of the persistent systemic issues, are contradicted by the daily reality faced by citizens, who are obliged by the country's laws to obtain specific official permission for every instance of exercising their rights to peaceful assembly, to freedom of association and to freedom of the media, and who are considered as criminals and can be condemned to prison sentences under the above-mentioned laws because of their decision to exercise their rights to political expression, to peacefully demonstrate, or to participate in unregistered gatherings.

111. The Special Rapporteur has described in the present report the cyclical system of oppression of human rights in Belarus. The State party's authorities have

established a permanent state of intimidation through their oppressive laws and policies, and regularly resort to large-scale violence by law enforcement officials. The crackdown on peaceful demonstrators in March 2017 and in March 2018, the return to administrative arrests of demonstrators after a brief period of simply fining them, and to frequent short-term arrests of political opponents, are illustrative of the cyclical nature of oppression.

112. The presidential and parliamentary elections scheduled for 2020 and possibly 2019 present an opportunity for the authorities to allow Belarusian society the breathing space that it deserves. In that regard, the focus of policies on key issues, such as freedom of expression, including of the media, freedom of peaceful assembly, freedom of association and political plurality, could be shifted. Given the persistent lack of political will to take such action demonstrated by the incumbent administration over the past few decades, the Special Rapporteur has limited hopes that the State party's authorities will seize the opportunity to start changing policies. That is another reason why, in the Special Rapporteur's view, international scrutiny of and the provision of support regarding the human rights situation in Belarus should continue.

113. The Special Rapporteur regrets that the Government has refused to engage with the mandate, and hopes that its attitude will change in the remaining few months of his mandated period, or towards his successor in the mandate, which should be renewed. The recommendations that he made in his previous reports remain valid.

114. In addition, the Special Rapporteur recommends that the Government:

(a) Release all political prisoners, and end the practice of imprisoning individuals and political leaders who express dissenting views;

(b) Allow the existence of nationwide independent media, and end harassment against journalists;

(c) Put an end to discriminatory social policies combating "social parasitism";

(d) Repeal article 193-1 of the Criminal Code curtailing the freedoms of peaceful assembly and of association;

(e) Create a simple notification system for associations, pickets and peaceful assemblies, and put an end to the oppressive system of authorization and accreditation;

(f) Involve civil society representatives, including human rights defenders, in any dialogue on human rights issues; in that regard, use the domestic discussions on the realization of the Sustainable Development Goals to start such a dialogue;

(g) Introduce a moratorium on executions, leading to the total abolition of the death penalty;

(h) Put an end to discriminatory practices and narratives against women and individuals belonging to minorities;

(i) Put an end to the oppression of cultural expressions addressing civil, political and socioeconomic issues;

(j) Ensure the independence of the judiciary, and stop the harassment of lawyers, including through the reaccreditation process;

(k) Revise the Electoral Code to include long-standing recommendations from the OSCE Office for Democratic Institutions and Human Rights;

(l) Address the systemic issues highlighted by the human rights mechanisms by implementing their recommendations;

(m) Issue a standing invitation to all special procedures.

United Nations A/HRC/38/52

General Assembly

Distr.: General
25 April 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, prepared pursuant to Council resolution 34/35. The report addresses the issue of racial discrimination in the context of laws, policies and practices concerning citizenship, nationality and immigration.

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I. Activities of the Special Rapporteur

1. The present report is submitted pursuant to Council resolution 34/35.

A. Country visits

2. Following her appointment, the Special Rapporteur renewed the formal requests for country visits sent by her predecessors to Algeria, Bangladesh, Botswana, India, Israel, Japan, Malaysia, South Africa and Tunisia. She also sent requests to Colombia, the Dominican Republic, Jamaica, Kenya, Lebanon, Madagascar, Oman, Peru and Trinidad and Tobago. She urges States that have not yet responded positively to her visit requests to do so.

3. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for inviting her to conduct a visit from 30 April to 11 May 2018. She also thanks the Governments of Brazil, Morocco, the Netherlands, Poland and Qatar for accepting her visit requests.

B. Other activities

4. In November 2017, the Special Rapporteur delivered a video statement at the regional meeting for Europe, Central Asia and North America on the International Decade for People of African Descent. On 22 February 2018, she participated in the annual parliamentary hearing of the Inter-Parliamentary Union, entitled "Towards a global compact for safe, orderly and regular migration: A parliamentary perspective". In March 2018, she attended the 167th session of the Inter-American Commission on Human Rights in Bogotá, during which she engaged with local civil society organizations. During the twenty-second session of the Working Group of Experts on People of African Descent, from 19 to 23 March 2018, she delivered a video statement on land rights for people of African descent.

5. On 20 March 2018, the Special Rapporteur was a keynote speaker at the commemorative plenary meeting of the General Assembly in New York on the occasion of the International Day for the Elimination of Racial Discrimination. On the same day, she participated in the official launch of the Group of Friends on the Elimination of Racism. On 21 March 2018, she participated in a special event celebrating the International Decade for People of African Descent, entitled "A decade of recognition for the contributions, achievements and challenges of people of African descent worldwide". While in New York, she held an informal consultation with local civil society organizations and other interested stakeholders. Participants discussed setting an international human rights anti-racism agenda in the shadow of populist nationalism.

II. Racial discrimination in the context of citizenship, nationality and immigration status

6. The present report identifies and reviews contemporary racist and xenophobic ideologies, and institutionalized laws, policies and practices, which together have a racially discriminatory effect on individuals' and groups' access to citizenship, nationality and immigration status. It shows how both are prohibited under international human rights law and recommends concrete actions States must take to fulfil their obligations to achieve substantive racial equality. It highlights the impact of ethno-nationalism, and draws attention to how ethno-nationalists and other groups manipulate national anxieties about national security and economic prosperity to achieve and advance racist and xenophobic policies against indigenous peoples, non-nationals and other minority groups. In doing so, it calls attention both to explicit ideologies of racial superiority and to structural racism that occurs through institutions and policies that might otherwise be ignored due to the absence of explicit racial, ethnic or religious animus. To inform the drafting of the present report, the Special Rapporteur issued a call for submissions to the various stakeholders of her mandate. She received and reviewed 25 submissions from Member States and 13 submissions from civil society organizations. She welcomes these submissions and encourages wider

participation of Member States, civil society organizations and other stakeholders in her future reports.

7. Under international human rights law and principles, all human beings are entitled to fundamental human rights on account of their inherent dignity. The preamble to the Universal Declaration of Human Rights begins with the proclamation that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. In reality, however, for all human beings, their capacity to enjoy full human rights depends on their citizenship, nationality or immigration status. Everywhere, States require passports, identification cards and other forms of proof of citizenship in order for residents to enjoy access to health care, education, financial services and to maintain formal employment. In short, citizenship, nationality and immigration status remain preconditions for full enjoyment of human rights for people everywhere.

8. Although the exact number of stateless persons is unknown, the Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that there are approximately 10 million stateless persons across the globe.[1] The dire circumstances confronting stateless persons make clear the vital role that citizenship and nationality play in determining access to fundamental human rights. Owing to their lack of documentation, individuals who are stateless face grave and often insurmountable barriers in access to employment, education, health care, birth registration, property ownership, freedom of movement and political participation.[2] Stateless persons also face greater risks of human trafficking victimhood and other forms of exploitation.[3] In general, stateless individuals live lives of constant fear of arrest, detention and even physical expulsion because they lack official documents. Children constitute over a third of the global stateless population, and in the countries with the 20 largest stateless populations, approximately 70,000 stateless children are born each year.[4]

9. Owing to their immigration status, other categories of non-citizens are also subject to serious human rights violations, including unlawful involuntary physical expulsion in violation of the non-refoulement principle under international refugee law and international human rights law. From formally recognized refugees to regular and irregular migrants, many are denied access to education, health care, employment and even equality before the law. Barriers to formal documentation can mean entire generations of refugee children are excluded from formal education. For example, 54 per cent of South Sudanese refugee children are out of school,[5] as are over half a million Syrian refugee children.[6] More generally, about only half of the global child refugee population has access to primary education as compared to the global non-refugee child average of 90 per cent. As refugee children get older, their educational opportunities only worsen: whereas the global average of adolescent secondary school attendees is 84 per cent, for refugee children this proportion plummets to 22 per cent enrolment in secondary school.[7]

10. It simply remains the case that, notwithstanding the entitlement that every human being has to fundamental human rights, the lived experience of most is that it is citizenship, nationality and immigration status that effectively determine the ability to exercise and enjoy

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[1] UNHCR, "The Sustainable Development Goals and addressing statelessness", March 2017, p. 2. Available at www.refworld.org/docid/58b6e3364.html.

[2] See UNHCR, "This is our home: stateless minorities and their search for citizenship", November 2017. Available at www.refworld.org/docid/59e4a6534.html.

[3] UNHCR and Open Society Justice Initiative, "Citizens of nowhere: solutions for the stateless in the U.S.", December 2012, p. 10. Available at www.refworld.org/docid/50c620f62.html.

[4] UNHCR, "I am here, I belong: the urgent need to end childhood statelessness", November 2015, p. 8. Available at www.unhcr.org/ibelong/wp-content/uploads/2015-10-StatelessReport_ENG15-web.pdf.

[5] See UNHCR, "The plight of South Sudanese refugee children—reflections of the Regional Refugee Coordinator", 20 September 2017. Available at www.unhcr.org/afr/news/stories/2017/9/59c246674/the-plight-of-south-sudanese-refugee-children-reflections-of-the-regional.html.

[6] UNHCR, "Syria crisis: education interrupted", December 2013, p. 5. Available at www.unhcr.org/en-us/publications/operations/52aaebff9/syria-crisis-education-interrupted.html.

[7] UNHCR, "Missing out: refugee education in crisis", September 2016, p. 4. Available at www.unhcr.org/57d9d01d0.

these rights. Some are denied citizenship or formal immigration status at birth or through restrictions on naturalization, while others are subject to collective and individualized withdrawals of citizenship. Sometimes, States produce stateless populations or persons with irregular or inadequate status through administrative barriers that structurally exclude marginalized social or national groups.[8] They use policies and laws that range from outright denial of citizenship to heightened inaccessibility of complicated immigration systems. In either case, the impacts of these direct and indirect mechanisms of exclusion and discrimination are similarly devastating.

11. A State discriminatorily deprives a person of citizenship or immigration status when it withholds or withdraws status on an unreasonable classification such as skin colour, ethnicity, national origin or religion. States have long used access to citizenship and immigration status as a discriminatory tool to curtail the rights and benefits of marginalized groups. Statelessness, for example, has a number of causes, but it is often the result of long-standing discrimination against racial and ethnic minorities, indigenous peoples and religious groups. In other words, it is often the foreseeable product of discriminatory laws, policies and practices that aim to exclude or have the effect of excluding people who are considered as foreign, often on the basis of their race, colour, descent, ethnicity, national origin or religion.[9] It is thus no surprise that according to UNHCR, "more than 75% of the world's known stateless populations belong to minority groups".[10] Although some States have renounced explicit discriminatory practices and have adopted fairer-seeming laws and policies, many States continue to permit institutional or indirect discrimination based on race, colour, ethnicity and religion. Similarly, exclusion from citizenship status or from all forms of formal immigration status typically occurs along racial, ethnic, national origin and religious lines, as discussed below.

12. Also discussed below is the importance of an intersectional approach to racial discrimination in the context of citizenship, nationality and immigration laws that accounts for the compounding and differential effects of sex and gender, among other factors. States continue to enforce patriarchal laws that use gender-based discrimination to achieve racial, ethnic and religious exclusion.

13. The present report is organized as follows: section III provides an overview of the applicable international human rights framework. Section IV examines several contemporary manifestations and drivers of racial discrimination in the context of citizenship, nationality and immigration laws, policies and practices. The current section notes that the past decade has seen the escalation of racially discriminatory policies and rhetoric concerning citizenship, nationality and immigration status all over the world. In the past three years in particular, ideologies of racist and xenophobic hatred have been resurgent. As mentioned above, the first aim of the present report is to name and analyse the human rights impact of these ideologies on specific racial, ethnic, national and religious groups. The Special Rapporteur underscores the urgent need for States to condemn explicitly racist and xenophobic practices and policies where citizenship, nationality and immigration laws are concerned.

14. At the same time, the Special Rapporteur aims in the present report to highlight and condemn facially race-neutral policies or rhetoric that nonetheless result in racialized exclusion. This is because States regularly engage in racial discrimination in access to citizenship, nationality or immigration status through policies and rhetoric that make no reference to race, ethnicity or national origin, and that are wrongly presumed to apply equally to all. The Special Rapporteur thus uses the present report to identify and analyse structures and discourses that have the effect of racially discriminating against individuals and groups in their access to citizenship and immigration status, even when States, politicians and general populations ignore or deny the racial impact of these structures and discourses. There

[8] This is particularly the case in situations of protracted or large-scale displacement. See, for example, Institute on Statelessness and Inclusion and Norwegian Refugee Council, "Understanding statelessness in the Syria refugee context", 2016. Available at www.nrc.no/resources/reports/understanding-statelessness-in-the-syria-refugee-context/.

[9] UNHCR finds that "discrimination and exclusion of ethnic, religious or linguistic minority groups often lies at the heart of their statelessness". See UNHCR, "This is our home", p. 2.

[10] Ibid., p. 1.

is no question that achieving racial equality requires robust action to deal swiftly and simultaneously with explicit racism and xenophobia, and with policies and institutions that achieve racial and xenophobic discrimination, even absent discernible racial or xenophobic animus.

15. Section V concludes the report with recommendations for various stakeholders, outlining necessary actions to promote substantive equality.

III. Prohibition of racial discrimination on the basis of citizenship, nationality and immigration status under international human rights law

A. Overview of the applicable international legal framework

16. The Special Rapporteur recalls that international human rights law is based on the premise that all persons, by virtue of their humanity, should enjoy all human rights without discrimination on any grounds. The principles of equality and non-discrimination are therefore codified in all core human rights treaties.[11] The Human Rights Committee and the Committee on Economic, Social and Cultural Rights have frequently reiterated that the rights set out in the two International Covenants on Human Rights must generally be guaranteed to everyone, including non-citizens and persons belonging to racial and ethnic minorities.[12] Exceptional distinctions, for example between citizens and non-citizens or between different groups of non-citizens, are permissible only if they serve a legitimate objective and are proportional to the achievement of that objective. Differences in treatment on grounds of race or ethnicity are not permitted as the prohibition of racial discrimination has been recognized as part of customary international law, imposing immediate and absolute obligations from which no derogation is permitted, even in a state of emergency.[13]

17. The most comprehensive prohibition of racial discrimination can be found in the International Convention on the Elimination of All Forms of Racial Discrimination. Article 1 (1) defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life". While the provision does not mention discrimination on the basis of religion, the Committee on the Elimination of Racial Discrimination has found that the Convention may apply in cases where discrimination on religious grounds intersects with other forms of discrimination specifically prohibited under article 1 (1).[14]

18. The Special Rapporteur would like to highlight that the prohibition on racial discrimination in international human rights law aims at much more than a formal vision of equality. Equality in the international human rights framework is substantive, and requires States to take action to combat intentional or purposeful racial discrimination, as well as to combat de facto or unintentional racial discrimination. Indeed, in its general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, the Committee on the Elimination of Racial Discrimination clarifies that the prohibition of racial discrimination under the Convention cannot be interpreted restrictively. It not only aims to

[11] For an overview of international human rights instruments that specifically prohibit discrimination against certain groups, see A/HRC/32/50, paras. 10–14. The report also provides an overview of the prohibition of racial discrimination at the regional level, paras. 15–25.

[12] See, for example, Human Rights Committee, general comment No. 15 (1986) on the position of aliens under the Covenant, paras. 1–2; Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, paras. 24 and 30.

[13] See, for example, A/HRC/7/23, para. 35.

[14] See, for example, Committee on the Elimination of Racial Discrimination, general recommendation No. 32, para. 7; and *P.S.N. v. Denmark* (CERD/C/71/D/36/2006), para. 6.3.

achieve formal equality before the law, but also substantive (de facto) equality in the enjoyment and exercise of human rights. The Committee emphasizes that the Convention applies to purposive or intentional discrimination as well as discrimination in effect[15] and structural discrimination.[16]

19. The Special Rapporteur stresses that this substantive, non-formalistic approach to equality applies even in the context of citizenship, nationality and immigration laws and policies. Article 1 (2) of the International Convention on the Elimination of All Forms of Racial Discrimination stipulates that the Convention does not apply to distinctions, exclusions, restrictions or preferences made between citizens and non-citizens. While this provision allows States to make some distinction between citizens and non-citizens, the Special Rapporteur reiterates that it must be interpreted narrowly and in accordance with international human rights law and standards relating to the prohibition of racial discrimination and equality before the law. Distinctions between citizens and non-citizens cannot be applied in a racially discriminatory manner or as a pretext for racial discrimination. In its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee explains that article 1 (2) must not undermine the general equality and non-discrimination provisions enshrined in article 5 of the Convention and other international legal instruments (paras. 2–3). The Committee elaborates further, indicating that differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim (para. 4). In order to eliminate and prevent racial discrimination against non-citizens, the Committee calls on States to ensure that domestic legislation on the prohibition of racial discrimination applies to non-citizens, regardless of their immigration status, and to ensure that the implementation of national legislation does not have a discriminatory effect on non-citizens (para. 7). In addition, the Committee urges States to protect the rights of non-citizens by adopting concrete measures with regard to hate speech and racial violence; access to citizenship; the administration of justice; expulsions and deportations; and the enjoyment of economic, social and cultural rights (sects. II–VII).

20. The prohibition of racial discrimination also applies in the context of deportations or expulsions of non-citizens. Although not explicitly mentioned in the Convention, the Committee has addressed racial discrimination in the context of deportations and expulsions in its general recommendations, jurisprudence and concluding observations. Deportations and expulsions threaten and can violate article 5 (b) of the Convention, which guarantees freedom from racial discrimination in enjoyment of the right to security of person and protection from violence or bodily harm.[17] In its general recommendation No. 30, the Committee lists concrete measures that States should adopt in this area. It calls on States to ensure that: (a) domestic legislation concerning deportations or other forms of removal do not discriminate, in purpose or effect, among non-citizens on the basis of race, colour, national or ethnic origin; (b) all non-citizens have equal access to effective remedies; (c) non-citizens are not subject to collective expulsion; (d) the principle of non-refoulement is respected; and (e) they avoid expulsions of non-citizens, especially long-term residents, that would result in disproportionate interference with their right to family life (paras. 25–28).

21. With regard to immigration, the Special Rapporteur notes that laws and policies on immigration must not discriminate, in purpose or effect, on the basis of race, colour, national or ethnic origin.[18] The Special Rapporteur is of the view that blanket immigration bans that target particular nationalities with the intent or effect of discriminating on the basis of race,

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[15] See Committee on the Elimination of Racial Discrimination, general recommendation No. 32, paras. 6–7.

[16] See, for example, Committee on the Elimination of Racial Discrimination, general recommendation No. 34 (2011) on racial discrimination against people of African descent, paras. 5–7.

[17] Patrick Thornberry, *The International Convention on the Elimination of All Forms of Racial Discrimination: A commentary* (Oxford, Oxford University Press, 2016), pp. 325–326 and 339–340.

[18] See, for example, International Convention on the Elimination of All Forms of Racial Discrimination, art. 1 (3); Committee on the Elimination of Racial Discrimination, general recommendation No. 30, paras. 1, 7 and 9; Durban Declaration and Programme of Action, art. 30.

colour, national or ethnic origin are in clear violation of article 1 (3) of the Convention.[19] In particular, in the context of counter-terrorism, immigration and other measures must comply with the prohibition of racial discrimination, including with regard to racial and ethnic profiling or stereotyping.[20]

B. Right to nationality and the reduction/prevention of statelessness

22. While the prohibition of racial discrimination applies to the enjoyment of all civil, political, economic, social and cultural rights,[21] the Special Rapporteur notes that the right to nationality is particularly relevant in the context of citizenship, nationality and immigration.

23. Although the regulation of nationality is generally considered to be within the domestic jurisdiction of States, international law provides that the right of States to decide who their nationals are is not absolute.[22] The Inter-American Court of Human Rights noted that although "the determination of who has a right to be a national continues to fall within a State's domestic jurisdiction … its discretional authority in this regard is gradually being restricted with the evolution of international law".[23]

24. The right to a nationality is recognized and protected in various international[24] and regional[25] human rights instruments. It entails the right of each individual to acquire, change and retain a nationality.[26] In addition, the issue of nationality is regulated in the Convention on the Reduction of Statelessness, the Convention relating to the Status of Stateless Persons, and the Convention relating to the Status of Refugees. The Convention on the Reduction of Statelessness requires States to prevent statelessness by granting their nationality to persons who would otherwise be stateless and are either born in their territory or are born abroad to one of their nationals (arts. 1 and 4) and upon loss or deprivation of nationality (arts. 5–8). Under the Convention relating to the Status of Stateless Persons, States parties are also required to facilitate the assimilation and naturalization of stateless persons (art. 32).

25. Discrimination in the acquisition, transmission, change or deprivation of nationality is prohibited under the general equality and non-discrimination provisions of various instruments.[27] Some treaties also include specific provisions on the non-discriminatory enjoyment of the right to nationality. For example, article 5 (d) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination explicitly obliges States parties to guarantee the right of everyone to equality before the law, including in the enjoyment of the right to nationality. In its general recommendation No. 30, the Committee on the Elimination of Racial Discrimination calls upon States parties to ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalization; to address barriers to naturalization for long-term and permanent residents; to

[19] See also *A.M.M. v. Switzerland* (CERD/C/84/D/50/2012), para. 4.11.

[20] See Committee on the Elimination of Racial Discrimination, general recommendation No. 30, para. 10.

[21] See International Convention on the Elimination of All Forms of Racial Discrimination, art. 5.

[22] See A/HRC/13/34, paras. 20 and 57.

[23] See *Yean and Bosico v. Dominican Republic*, Inter-American Court of Human Rights, judgment of 5 September 2005, series C, No. 130, para. 140.

[24] See Universal Declaration of Human Rights, art. 15; International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (d) (iii); International Covenant on Civil and Political Rights, art. 24 (3); Convention on the Elimination of All Forms of Discrimination against Women, art. 9; Convention on the Rights of the Child, arts. 7–8; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 29; Convention on the Rights of Persons with Disabilities, art. 18; Convention on the Nationality of Married Women, arts. 1–3; United Nations Declaration on the Rights of Indigenous Peoples, art. 6.

[25] See African Charter on the Rights and Welfare of the Child, art. 6; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 6; American Declaration on the Rights and Duties of Man, art. XIX; American Convention on Human Rights, art. 20; Arab Charter on Human Rights, art. 24; European Convention on Nationality, arts. 4–9; Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession, arts. 2–11.

[26] See A/HRC/13/34, para. 21.

[27] Ibid., paras. 18 and 30–31.

take into account that denial of citizenship could result in a violation of the Convention if long-term or permanent citizens are disadvantaged in their access to employment and social benefits; to reduce statelessness; and to regularize the status of former citizens of predecessor States (paras. 13–17).[28] In addition, in its general recommendation No. 27 (2000) on discrimination against Roma, the Committee urges States parties to ensure that legislation regarding citizenship and naturalization does not discriminate against members of Roma communities (para. 4).

26. The right to retain a nationality entails a prohibition of the arbitrary deprivation of nationality,[29] which is implicitly or explicitly recognized in numerous international and regional instruments.[30] In its general recommendations, the Committee on the Elimination of Racial Discrimination has reiterated that the deprivation of citizenship on the basis of race, colour, descent or national or ethnic origin violates States parties' obligations to ensure non-discriminatory enjoyment of the right to nationality.[31] Article 9 of the Convention on the Reduction of Statelessness provides that the deprivation of nationality on racial, ethnic, religious or political grounds is prohibited, even if it would not result in statelessness.

27. In the light of the above-mentioned standards, the Special Rapporteur concludes that citizenship, nationality, and immigration laws and policies constitute a violation of international human rights law when they discriminate, in purpose or effect, between citizens and non-citizens, or among non-citizens, on the basis of race, colour, descent, or national or ethnic origin. Law, policies and practices that disproportionately exclude or have a negative impact on a particular racial, ethnic or national group should also be considered as a breach of the prohibition of racial discrimination. This is true even in the absence of de jure or intentional discrimination.

28. The Special Rapporteur would like to highlight that States must not only refrain from racial discrimination, but also have an obligation to adopt preventive measures aimed at combating prejudice and promoting tolerance, understanding and inclusion.[32]

C. Importance of an intersectional approach to racial discrimination and related intolerance

29. Achieving substantive racial equality requires an intersectional analysis of the problem of racial discrimination and intolerance.[33] The following definition of intersectionality captures well its significance:

> The idea of "intersectionality" seeks to capture both the structural and dynamic consequences of the interaction between two or more forms of discrimination or systems of subordination. It specifically addresses the manner in which racism, patriarchy, economic disadvantages and other discriminatory systems contribute to create layers of inequality that structures the relative positions of women and men, races and other groups. Moreover, it addresses the way that specific acts and policies

[28] The Committee has frequently addressed these issues in its concluding observations. See, for example, CERD/C/KWT/CO/15-20, para. 17; CERD/C/ITA/CO/16-18, para. 24; CERD/C/MDV/CO/5-12, para. 10; CERD/C/CYP/CO/17-22, para. 18; CERD/C/EST/CO/8-9, para. 13; CERD/C/KHM/CO/8-13, para. 18; CERD/C/TKM/CO/6-7, para. 18; CERD/C/SRB/CO/1, para. 19.

[29] For an analysis of the term "arbitrary deprivation of nationality", see A/HRC/13/34, paras. 23–27. See also A/HRC/25/28, para. 22.

[30] See A/HRC/13/34, para. 26; and Human Rights Council resolution 32/5.

[31] See Committee on the Elimination of Racial Discrimination, general recommendations No. 30, para. 14, and No. 34, para. 48.

[32] See, for example, International Convention on the Elimination of All Forms of Racial Discrimination, arts. 2 (1) (e), 4 and 7; Durban Declaration and Programme of Action, inter alia, paras. 30 (a) and 132; Committee on the Elimination of Racial Discrimination, general recommendation No. 30, paras. 11–12.

[33] See Committee on the Elimination of Racial Discrimination, general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

> create burdens that flow along these intersecting axes contributing actively to create a dynamic of disempowerment.[34]

30. An intersectional approach is especially important where citizenship and immigration status are concerned. Individuals and groups who are actual or perceived "foreigners" are vulnerable to a broad spectrum of human rights violations on account of this foreigner status. Foreignness, here, is the status of being an actual or perceived outsider to a given political community and significantly, the construction of foreignness rests on multiple, intersecting classifications, even where international migrants are concerned.[35] For migrants, the relevant membership unit is typically, although not exclusively, the nation State. However, foreignness should not be reduced to nationality or national origin alone.[36] In much of the world, non-white migrants are far more vulnerable to discrimination and intolerance than white migrants, irrespective of nationality. Refugees and migrants are targeted for discrimination on the basis of their nationality and national origin combined with other social categories, the most important of which include race, ethnicity, religion and class.[37] Increasingly these dimensions are made explicit in actual or aspirational State policy, as when politicians in Western Europe and North America openly oppose admission of specific groups of refugees on religious or racial grounds.

1. Gender

31. Gender-based discrimination concerning the right to nationality is explicitly prohibited under article 9 of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Nationality of Married Women.[38]

32. In the context of citizenship, nationality and immigration law and policy, States rely heavily on patriarchal laws and gender-based discrimination to achieve racial, ethnic and religious exclusion or restrictions. In several countries all around the world, women are denied the ability to confer their nationality on their children or on a non-national spouse.[39] This gender-based discrimination is often deployed by States to preserve notions of national, ethnic or racial "purity". An implicit aim of restricting the rights of citizenship to the children of male nationals and excluding married women from transferring their nationality to a foreign spouse is to discourage female nationals from marrying members of particular national, religious, ethnic or racial groups.

33. Twenty-five countries have nationality laws that discriminate based on gender, 12 of which are in the Middle East and North Africa and 6 are in Sub-Saharan Africa.[40] The Working Group on the issue of discrimination against women in law and in practice has highlighted the far-reaching impact of gender discrimination in nationality laws:

> In addition to violating anti-discrimination obligations, the unequal treatment of women's nationality in law and practice hinders the realization of other rights,

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[34] See Division for the Advancement of Women, OHCHR and United Nations Development Fund for Women, "Gender and racial discrimination: report of the Expert Group Meeting, 21–24 November 2000". Available at www.un.org/womenwatch/daw/csw/genrac/report.htm.

[35] For an analysis of foreignness as an intersectional category and its regulatory implications, see E. Tendayi Achiume, "Beyond prejudice: structural xenophobic discrimination against refugees", *Georgetown Journal of International Law*, vol. 45, No. 2 (Winter 2014), pp. 331–334.

[36] National origin and nationality differ in important respects, notwithstanding the regular overlap of the two. National origin variously refers to country of origin or one's ancestry, but nationality refers to the legal status belonging to a given nation State.

[37] See UNHCR, "Combating racism, racial discrimination, xenophobia and related intolerance through a strategic approach", December 2009, para. 11. Available at www.refworld.org/docid/4b30931d2.html.

[38] See also Human Rights Council resolution 32/7; Human Rights Committee, general comment No. 28 (2000) on the equality of rights between men and women, para. 25.

[39] UNHCR, "Background note on gender equality, nationality laws and statelessness 2017", pp. 3–5. Available at www.refworld.org/docid/58aff4d94.html.

[40] Ibid., p. 2. For analysis of gender discrimination in citizenship laws in Africa, see Bronwen Manby, *Citizenship Laws in Africa: A Comparative Study*, 2nd ed. (New York, African Minds, 2009), pp. 63–72.

including: the right to a nationality and freedom from statelessness, the right to equality in the family, the ability to participate equally in public and political life, freedom of movement, access to public services and the rights to housing, health and education, among other economic, social and cultural rights.[41]

34. In addition, more than 40 countries in the Middle East, North Africa and the sub-Saharan region, as well as in the Caribbean[42] and Asia and the Pacific,[43] have laws denying or implementing restrictions on married women passing their nationality to a foreign spouse on an equal basis with a married man. For example, in some States a woman loses her nationality of origin upon marrying a foreign spouse and cannot regain that nationality if the marriage ends.[44] Owing to citizenship discrimination, women and their children are often left stateless, lack access to social benefits and education, and have limited access to economic opportunities, among many other consequences.[45] Several countries holding discriminatory nationality laws towards women are also home to thousands of refugees who have fled armed conflict, repression, poverty and violence. These laws reinforce the vulnerability of refugee populations to statelessness and to abuse and exploitation.

35. As a result of gender-based discriminatory laws, millions of people are left without access to citizenship and are denied rights they would hold as citizens. In many cases, these gender discriminatory laws have a greater impact on people belonging to specific groups due to their origins, race, ethnicity or descent. These laws may therefore have direct or indirect racial discriminatory impacts on these groups. Indeed, the Working Group on the issue of discrimination against women in law and in practice has found that there is an intersectional dimension to gender-based discrimination in this context that appreciably subjects "women and girls belonging to minority communities, rural and indigenous women, migrant women, refugee women and those seeking asylum, and poor women" to unequal treatment in citizenship and immigration laws.[46] At least one submission received by the Special Rapporteur highlighted the specific challenges faced by transgender non-citizens, including restrictions on these groups that do not apply to citizens, but which have an impact on transgender non-citizens' access to employment, housing and other basic rights and that disproportionately target racial minorities.[47]

36. In recent years, many States have undertaken initiatives to amend their discriminatory nationality laws, allowing women to pass their nationality to their children, and to a lesser extent to their foreign husband.[48] Such reforms are commendable and should be emulated by other States. These reforms were also realizable in countries where Governments withdrew their reservations to article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, which provides that States shall grant women equal rights with men to acquire, change or retain their nationality, and also with respect to their children's nationality.

2. Religion

37. Contemporary manifestations of racism and xenophobia where citizenship and immigration status are implicated also point to the importance of attention to religion[49] and its regular overlap with race, ethnicity and national origin where discrimination and

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[41] See www.ohchr.org/Documents/Issues/Women/WG/DiscriminationAgainstWomenNationality.pdf, p. 1.

[42] A/HRC/28/85, p. 119 (BHS 2/2014).

[43] Equality Now, *The State We're In: Ending Sexism in Nationality Laws*, January 2016, p. 16. Available at www.equalitynow.org/sites/default/files/NationalityReport_EN.pdf.

[44] Ibid.

[45] Ibid., p. 9.

[46] See www.ohchr.org/Documents/Issues/Women/WG/DiscriminationAgainstWomenNationality.pdf, p. 2.

[47] See the submission dated 16 February 2018 from Center for Research-Action on Race Relations for the present report.

[48] See Equality Now, "Nationality laws: progress". Available at www.equalitynow.org/nationality-laws-progress.

[49] See A/72/365, paras. 19–25.

intolerance are concerned. The relationship between racial and religious discrimination is complex. Racial and religious discrimination are not always easy to distinguish, especially in practice. For example, religious minorities may also be racially or ethnically distinct in ways that make them vulnerable to racial discrimination that is formally achieved through religious preferences. Furthermore, in some cases religion and race become fused in dangerous ways. In many parts of the world, individuals or groups are discriminated against because they are "Muslim-looking" irrespective of whether these individuals or groups even hold Islamic religious beliefs.[50] On the other hand, the citizenship laws of some countries discriminate against non-Muslims and non-Arabs.[51] While the International Convention on the Elimination of All Forms of Racial Discrimination does not mention religion as a basis for prohibited racial discrimination, the Committee on the Elimination of Racial Discrimination has found that article 1 may apply to cases involving religious discrimination where the targeted individual or individuals belong to identifiable ethnic minority groups.[52]

IV. Contemporary drivers and manifestations of racial discrimination in citizenship, nationality and immigration laws, policies and practices

38. When States justify, adopt and implement policies that racially discriminate on the basis of citizenship and immigration status, they do so using a combination of approaches. It can be difficult to isolate individual drivers of discrimination and intolerance but it is possible to identify distinct, although related, categories.

A. Ethno-nationalism

39. The most obvious driver and facilitator of racial discrimination in citizenship and immigration laws is explicit prejudice, often rooted in ethno-nationalist ideologies. Ethno-nationalism, broadly defined, views the nation as "defined in terms of assumed blood ties and ethnicity".[53] It is important to highlight that, despite popular perception, ethno-nationalist ideologies are not spontaneous. They are the result of a range of complex economic, political, social and historical forces combined with the deliberate manipulation by "ethnic entrepreneurs"[54] and other political actors who seek to advance the narrow interests of particular groups.

40. Ethno-nationalism is not new. As discussed below, it has deep historical roots that have long operated in the realm of the law and policies of political membership. For example, European colonialism relied on ethno-nationalist theories to systemically exclude non-Europeans from effective citizenship status. In the nineteenth and twentieth centuries, Jews and Roma in Europe were targeted and excluded from citizenship on ethno-nationalist grounds. However, shifts have occurred over the past four years that include remarkable and

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[50] Muneer I. Ahmad, "A rage shared by law: post-September 11 racial violence as crimes of passion", *California Law Review*, vol. 92, No. 5 (October 2004), p. 1278; Stephanie E. Berry, "Bringing Muslim minorities within the International Convention on the Elimination of All Forms of Racial Discrimination—square peg in a round hole?", *Human Rights Law Review*, vol. 11, No. 3 (September 2011), p. 446; Olivier Roy, *Globalized Islam: The Search for a New Ummah* (New York, Columbia University Press, 2004), p. 133.

[51] Bronwen Manby, *Citizenship Law in Africa*, p. 4. Available at www.unhcr.org/4cbc60ce6.pdf.

[52] For an analysis of the jurisprudence of the Committee on the Elimination of Racial Discrimination involving religious discrimination that reaches this conclusion, see Stephanie E. Berry, "Bringing Muslim minorities within the International Convention on the Elimination of All Forms of Racial Discrimination—square peg in a round hole?", *Human Rights Law Review*, vol. 11, No. 3 (September 2011), pp. 431–436 and 450.

[53] René Lemarchand, "The siren song of self-determination", *UNESCO Courier* (June 1993), p. 30. Available at http://unesdoc.unesco.org/images/0009/000944/094420eo.pdf.

[54] Ibid., p. 31. See also Kris Brown and Fionnuala Ní Aoláin, "Through the looking glass: transitional justice futures through the lens of nationalism, feminism and transformative change", *International Journal of Transitional Justice*, vol. 9, No. 1 (March 2015), p. 140.

dangerous normalization and mainstreaming of racist and xenophobic discourse in public discourse, in part due to the growth and spread of ethno-nationalist ideologies. Political parties and leaders have shown increasing and disturbing tolerance for ethno-nationalist messages of hatred and intolerance in their political platforms. Countries that have long celebrated immigration as central to their national identity have now taken steps to vilify and undermine immigration, with a disproportionate effect on certain racial, religious and national groups. Even countries such as Argentina, which have been celebrated by holders of this mandate in the past for their human rights-based immigration policies, are now rolling back these policies under anti-immigrant political leadership.[55]

41. The rise of populist nationalism and right-wing extremism has delivered a devastating blow to racial equality, especially in the global North. Non-citizens, including refugees and stateless persons, have been the most vulnerable as a result of the ethno-nationalism that has accompanied this rise, although others have been targets, including women, sexual minorities and people with disabilities. Racist and xenophobic speech and violence against racial and other minorities, and against refugees and migrants in particular, escalated in the wake of the decision by the United Kingdom to leave the European Union, or "Brexit", and national elections in Europe, North America and Australia.[56] At the same time, States and politicians have used offensive and Islamophobic rhetoric to justify blanket immigration bans and military force and fences at border crossings in violation of their obligations under international human rights law and international refugee law. In other countries, the primary targets of blanket immigration prohibitions have been Africans and people of African descent.[57] Reputable reports have uncovered the underhanded tactics of ethno-nationalist political leaders and even official government leaders who have been willing to spend millions deliberately to spread "fake news" or false information about refugees and involuntary migrants.[58] These lies are dangerous and even fatal when they raise national resistance to and violence against asylum seekers and migrants, and more generally escalate racial, ethnic and religious intolerance.[59]

42. Present day Europe offers a multitude of examples of national identity anxiety ranging from explicitly articulated calls for racial or ethnic purity, to coded calls for religious or linguistic preservation. In some cases, ethno-nationalist arguments are pretextually framed as defences of linguistic, cultural or religious identity. But when linguistic and cultural requirements in naturalization or immigration laws have the effect of excluding groups from the benefits of the State on the basis of their race, ethnicity or religion, these requirements should be seen as an urgent and unlawful threat to racial equality. The Special Rapporteur expresses grave concern about the growing number of States that have threatened and even adopted blanket bans against refugees of particular religions or national origin, most commonly Muslims and Muslim majority countries.[60] Religious discrimination blatantly

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[55] See A/HRC/35/41/Add.1. A 2017 presidential decree took the regressive step of overturning or undermining one of the most progressive immigration policies in the world, in an atmosphere of growing racism and xenophobia against non-nationals. See Alejandro Grimson, "Argentina's anti-immigrant about-face", *North American Congress on Latin America Report on the Americas*, vol. 49, No. 2 (2017), p. 123. Available at www.tandfonline.com/doi/abs/10.1080/10714839.2017.1331792.

[56] See, for example, A/HRC/35/41/Add.2, para. 56; A/HRC/35/42, paras. 17–18; A/72/287, paras. 11–17; A/HRC/32/50, paras. 64–65.

[57] See OHCHR, "Israel: UN experts urge immediate halt of plans to deport Eritrean and Sudanese nationals", 1 March 2018. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22741&LangID=E.

[58] See Human Rights Watch, "Hungary's xenophobic anti-migrant campaign", 13 September 2016. Available at www.hrw.org/news/2016/09/13/hungarys-xenophobic-anti-migrant-campaign.

[59] See OHCHR, "Hungary: opinion editorial by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein", 6 March 2018. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22765.

[60] In the case of *International Refugee Assistance Project v. Trump*, 883 F.3d 233, 269 (2018), the United States Court of Appeals for the Fourth Circuit noted that "plaintiffs offer undisputed evidence that the President of the United States has openly and often expressed his desire to ban those of Islamic faith from entering the United States. The Proclamation [travel ban] is thus not only a likely Establishment Clause violation, but also strikes at the basic notion that the government may not act based on 'religious animosity'" (p. 52). See also Secretary General of the Council of Europe, "No

violates international refugee law,[61] and national origin discrimination blatantly violates the international human rights laws and principles analysed above. In the light of the contemporary prevalence of national identity anxiety targeting Muslims, it is important to highlight that the substantive core of such anxiety is often Islamophobia, defined by one legal scholar as "the presumption that Islam is inherently violent, alien, and inassimilable".[62]

43. Blanket exclusion of entire categories of minorities or migrants justified by claims of cultural preservation too often aims to achieve racial preservation. The use of culture in this way has historical roots in Europe and North America. In Europe, traditionally, racism was understood as "an ideology that claims the fundamental inequality and hierarchical order of different biologically defined races".[63] In the wake of German Nazism, scholars in Europe identify the shift in salience from racism traditionally defined to "a new form of racism … not based on biology and hierarchies but on culture and difference".[64] Today, radical right-wing parties in Europe are characterized by ideology that constructs cultural difference as an existential threat to European nationhood that can be neutralized only by migrant exclusion to achieve ethnic purity.[65] A similar dynamic exists in parts of North America, where arguments for national identity preservation have sought to achieve racialized ethnic purity.[66] Culturally coded racism is still racism, and must be strongly condemned.

44. The Special Rapporteur notes that the resurgent xenophobic and racist rhetoric and policies rooted in ethno-nationalism do not only harm non-citizens of any given nation. They also make formal citizens who are ethnic, racial or religious minorities vulnerable to discrimination and intolerance. For example, Islamophobic or anti-Semitic ethno-nationalism undermines the rights of Muslims or Jews irrespective of citizenship status. Ethno-nationalist rhetoric and policy have also reinforced and escalated discrimination against indigenous peoples and peoples of African descent through various measures relating to citizenship and immigration status, even when these communities have deep and enduring ties to the nations in which they reside.[67]

45. In the global South, nation-building and nationalist ideology privileging certain racial, ethnic or religious groups have played an equivalent role to extreme right-wing ideology in the global North. Ethno-nationalist ideologues continue to use civilian and military force to exclude minorities and indigenous peoples from the benefits of national membership. Such forms of intolerance fuel extreme forms of discrimination, including ethnic cleansing and ultimately genocide. The case of Rohingya Muslims offers a chilling example. In this regard, in March 2018, the Special Adviser on the Prevention of Genocide stated that:

> Rohingya Muslims have been killed, tortured, raped, burned alive and humiliated, solely because of who they are. All the information I have received indicates that the intent of the perpetrators was to cleanse northern Rakhine state of their existence, possibly even to destroy the Rohingya as such, which, if proven, would constitute the crime of genocide.[68]

46. The 1982 Myanmar nationality law discriminates on the basis of ethnicity, and is largely inaccessible to the Rohingya, rendering many of them stateless. The law and the way

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place for discrimination, xenophobia in migrant crisis in Europe", 20 August 2015. Available at https://goo.gl/sk8VtS; CCPR/C/POL/CO/7. paras. 31–32.

[61] See Convention relating to the Status of Refugees, art. 3.

[62] See Khaled A. Beydoun, "Islamophobia: toward a legal definition and framework", *Columbia Law Review Online*, vol. 116 (2016).

[63] Jens Rydgren, "Meso-level reasons for racism and xenophobia", *European Journal of Social Theory*, vol. 6, No. 1 (2003), p. 48.

[64] Ibid.

[65] Jens Rydgren, "Immigration sceptics, xenophobes or racists? Radical right-wing voting in six West European countries", *European Journal of Political Research*, vol. 47, No. 6 (October 2008), pp. 745–746.

[66] See, for example, Juan F. Perea, "Demography and distrust: an essay on American language, cultural pluralism, and official English", *Minnesota Law Review*, vol. 77 (1992).

[67] See, for example, CERD/C/GBR/CO/21-23, para. 15; A/HRC/35/41, paras. 48–59.

[68] See www.un.org/sg/en/content/sg/note-correspondents/2018-03-12/note-correspondents-statement-adama-dieng-united-nations.

it is implemented effectively deny nationality to the Rohingya and perhaps more significantly the laws have enabled the State to deny the Rohingya their humanity.[69]

47. Ethno-nationalist ideologies may in some cases be implicitly manifested in legal and policy frameworks that systematically exclude specific racial, ethnic or national minorities from citizenship status, even where these minorities have been territorially resident for multiple generations. The treatment of Haitian descendants, many of whom the Dominican Republic effectively stripped of citizenship,[70] and whom the United States has stripped of temporary protected immigration status,[71] is a clear example of racial targeting. The Inter-American Court of Human Rights found that the Dominican Republic had applied its nationality laws in a discriminatory manner where Dominicans of Haitian descent were concerned.[72] In the report of their 2007 mission to the Dominican Republic, the Special Rapporteur on racism and the independent expert on minority issues found that individuals of Haitian descent were treated in a discriminatory manner in the registration offices of the government agency responsible for issuing important identity documents required to establish citizenship and the right to remain in the country.[73] Although many in the Dominican Republic do not have proper documents, only those with "dark skins and Haitian features" are treated as "illegal".[74] The widespread, institutionalized exclusion of Haitians and Haitian descendants in different parts of the world is but one example of the persisting vulnerability of Afrodescendants to racial discrimination.

48. In some African countries, ethno-nationalist theories of citizenship have been used to disqualify political opposition leaders from national office, and in some parts of Asia and the Middle East, ethno-nationalism regularly results in the stripping of citizenship or territorial expulsion of unpopular racial and ethnic minorities.[75]

Unresolved historical ethno-nationalist legacies

49. In addition to the contemporary manifestations of racial discrimination driven by explicit and implicit ethno-nationalism in the context of citizenship and immigration status, historical legacies remain operational. Especially in former colonial territories, long-standing citizenship and nationality laws often discriminate against indigenous peoples or persons belonging to racial and ethnic minorities, in ways that reinforce ethno-nationalist conceptions of political membership. In some cases, racial or ethnic discrimination in access to citizenship or naturalization renders these groups stateless, preventing them from fully enjoying their human rights.

50. Koreans forcibly transferred to Japan during the Second World War faced extreme forms of discrimination. Today their descendants, despite being second and third generation in that country, are unable to attain citizenship and are still labelled as "foreigners" or "aliens". Additionally, these Korean descendants remain vulnerable to hate crimes, including fatal attacks.[76] Similarly, Nubians living in Kenya are considered to be aliens and have always

[69] See UNHCR, "States of denial: a review of UNHCR's response to the protracted situation of stateless Rohingya refugees in Bangladesh", December 2011, paras. 11–15. Available at www.unhcr.org/afr/research/evalreports/4ee754c19/states-denial-review-unhcrs-response-protracted-situation-stateless-rohingya.html.

[70] See Inter-American Commission on Human Rights, *Report on the situation of human rights in the Dominican Republic*, 31 December 2015, paras. 4–6 and 197–271. Available at www.oas.org/en/iachr/reports/pdfs/dominicanrepublic-2015.pdf; CERD/C/DOM/CO/13-14, paras. 19–21; A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, paras. 51–87 and 125–131; Inter-American Court of Human Rights, *Yean and Bosico v. Dominican Republic*.

[71] See United States of America, Citizenship and Immigration Services, "Termination of the designation of Haiti for temporary protected status" (Federal Register, 18 January 2018). Available at www.federalregister.gov/documents/2018/01/18/2018-00886/termination-of-the-designation-of-haiti-for-temporary-protected-status.

[72] See Inter-American Court of Human Rights, *Yean and Bosico v. Dominican Republic*, para. 260.

[73] See A/HRC/7/19/Add.5-A/HRC/7/23/Add.3, paras. 49, 55–56 and 129.

[74] Ibid., para. 62.

[75] James A. Goldston, "Holes in the rights framework: racial discrimination, citizenship, and the rights of noncitizens", *Ethics and International Affairs*, vol. 30, No. 3 (2006), p. 327.

[76] See CERD/C/JPN/CO/7-9, para. 11.

occupied an uncertain citizenship status.[77] British colonial forces conscripted many Nubians in the Sudan and deployed them to Kenya during the Second World War. At the end of the war, these Nubians were prohibited from repatriation and the colonial Government refused to acknowledge Nubians as citizens, instead classifying them as a foreign tribe.[78] This foreigner classification has continued to define Nubians in Kenya, despite many generations of Nubians living in Kenya, with no real ties to the Sudan.[79] To obtain the identity cards necessary to prove citizenship, Nubians must undergo long, complex and humiliating vetting processes without the guarantee they will be issued with the cards.[80] This process effectively restricts Nubians from accessing citizenship at all in parts of East Africa. It was only in June 2017 that Kenya recognized the property rights of Nubians, following a decision of the African Commission on Human and Peoples' Rights.[81]

51. The Special Rapporteur notes with concern that the restrictive nationality laws in one State in the Middle East have left more than 100,000 people stateless. Although many of them have lived in the country for generations, they are considered "illegal residents" who continue to be denied equal access to social services, legally valid civil documentation, and due process in claiming citizenship.[82]

52. In some countries, former citizens of predecessor States continue to face barriers to the regularization of their status. According to UNHCR, there were more than 722,000 stateless persons with no or unclear citizenship status in the Organization for Security and Cooperation in Europe (OSCE) area in 2015. The majority of them are former Soviet Union and Socialist Federal Republic of Yugoslavia citizens.[83] While many successor States have adopted measures to regularize the status of former citizens of predecessor States who now reside within their jurisdictions, to this day, thousands of people in successor States do not enjoy the rights and benefits of citizenship.[84] Although citizenship regulations in these countries do not formally discriminate against particular groups of non-citizens, historical circumstances often mean that persons belonging to ethnic minorities are disproportionately affected.[85] In Latvia, more than 230,000 people remain so-called non-citizens, 99.5 per cent of whom belong to ethnic minorities.[86] In this context, a former Special Rapporteur on racism

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[77] See CERD/C/KEN/CO/5-7, para. 27.

[78] Bronwen Manby, *Struggles for Citizenship in Africa* (New York, Palgrave Macmillan, 2013), pp. 122–123.

[79] Samantha Balaton-Chrimes, "Indigeneity and Kenya's Nubians: Seeking equality in difference or sameness?", *Journal of Modern African Studies*, vol. 51, No. 2 (June 2013), pp. 338–339. Available at www.cambridge.org/core/services/aop-cambridge-core/content/view/S0022278X13000049. See also Adam Hussein Adam, "Kenyan Nubians: standing up to statelessness", *Forced Migration Review*, vol. 32 (April 2009). Available at www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR32/19-20.pdf; African Committee of Experts on the Rights and Welfare of the Child, *Institute for Human Rights and Development in Africa and Open Society Justice Initiative on behalf of Children of Nubian Descent in Kenya v. Kenya*, decision No. 002/Com/002/2009 (2011). Available at www.opensocietyfoundations.org/sites/default/files/ACERWC-nubian-minors-decision-20110322.pdf (finding that the treatment of children of Nubian descent in Kenya by the Government constituted a violation of the African Charter on the Rights and Welfare of the Child and a failure to protect their right to nationality).

[80] See Open Society Foundations, "Nubian community in Kenya v. Kenya", 12 May 2017. Available at www.opensocietyfoundations.org/litigation/nubian-community-kenya-v-kenya.

[81] See Open Society Foundations, "After long struggle, Kenya's Nubian minority secures land rights", 5 June 2017. Available at www.opensocietyfoundations.org/press-releases/after-long-struggle-kenyas-nubian-minority-secures-land-rights.

[82] See CERD/C/KWT/CO/21-24, paras. 27–28; CCPR/C/KWT/CO/3, paras. 10–11; Human Rights Watch, "Prisoners of the past: Kuwaiti Bidun and the burden of statelessness", 13 June 2011. Available at www.hrw.org/report/2011/06/13/prisoners-past/kuwaiti-bidun-and-burden-statelessness.

[83] OSCE and UNCHR, "Handbook on statelessness in the OSCE area: international standards and good practices", 2017, p. 9. Available at www.osce.org/handbook/statelessness-in-the-OSCE-area.

[84] Ibid.

[85] See, for example, A/HRC/7/19/Add.3, para. 77.

[86] See www.pmlp.gov.lv/lv/assets/documents/1aaaa/ISVN_Latvija_pec_TTB_VPD.pdf.

recommended that the country adopt various measures to facilitate naturalization, including granting automatic citizenship at birth to children of non-citizen parents.[87]

53. The Special Rapporteur highlights that long-standing barriers in access to citizenship and naturalization in various countries have contributed to the deep-rooted forms of discrimination and exclusion faced by Sinti and Roma. Many members of the Roma and Sinti communities are stateless or face the risk of statelessness due to their lack of access to civil registration and identity documents.[88] Some of the major factors contributing to the lack of personal documents include complicated and burdensome bureaucratic procedures, lack of financial means to pay for the process of obtaining documentation, residence in unregistered settlements and difficulties in registering permanent place of residence, displacement, lack of access to free legal aid, lack of information about the procedures and discrimination.[89] These barriers mean that statelessness is passed on from generation to generation, further perpetuating the exclusion, discrimination and marginalization that Roma and Sinti communities experience in many countries.

54. At the same time, racial discrimination in the context of citizenship and immigration law and practice is often fuelled by national concerns and resulting policies that exist outside the realm of ethno-nationalism. An important example is national anxieties about national security and economic prosperity, which continue to facilitate racial discrimination on the basis of citizenship and immigration status. In the remainder of this section, the Special Rapporteur analyses these anxieties as contributing to racial discrimination and xenophobia, and condemns the role they play in perpetuating discrimination and intolerance on the basis of race, colour, descent, ethnicity, national origin or religion.

B. National security machinery and anxiety

55. Especially in Western liberal democracies, anxieties about national security and terrorism threats have produced a far-reaching web of surveillance and other practices that result in racial discrimination on the basis of citizenship or immigration status. This trend continues the disturbing and unlawful practices extensively documented by the former Special Rapporteur in his 2017 thematic reports. In these reports, he provides a comprehensive analysis of the human rights violations and xenophobic rhetoric abetted by Governments and other actors in Europe, Asia, South America, the Middle East, North America and Africa, fuelled by exaggerated and manipulated terrorism and national security anxieties, especially targeting Muslims and those perceived to be Muslim.[90]

56. In some countries, politicians have spread misinformation that portrays certain racial, national and religious groups as inherent national security threats. These misinformation campaigns have been most vehemently propagated by political parties and leaders with ethno-nationalist commitments. These parties and leaders deliberately stoke and exploit the national security anxieties of national populations, and they effectively stigmatize entire racial, ethnic, national and religious groups in ways that make these groups even more vulnerable to racist and xenophobic violence.[91]

57. States all over the world continue to use national security and counter-terrorism justifications to strip members of their national populations of citizenship. Rarely do States explicitly discriminate on the basis of race, ethnicity or national origin in their citizenship-stripping processes. However, overbroad policies ostensibly rooted in national security concerns permit arbitrary enforcement — including arbitrary citizenship stripping — which in practice have a disproportionate effect on marginalized racial, national and religious

[87] See A/HRC/7/19/Add.3, para. 88.

[88] See A/HRC/29/24, para. 36.

[89] OSCE, Office for Democratic Institutions and Human Rights, "Summary report: expert seminar on access to identification and civil registration documents by Roma in Ukraine" (Kyiv, 2015), p. 6. Available at www.osce.org/odihr/211996?download=true.

[90] See A/HRC/35/41, paras. 48–75; A/72/287, paras. 11–45.

[91] See OHCHR, "Zeid warns against populists and demagogues in Europe and U.S.", 5 September 2016. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20452.

groups. In these cases, racial discrimination continues to be the foreseeable effect of overbroad national security policy that is not proportionately tailored to achieve legitimate national defence requirements.

58. Whereas some groups are at heightened risk of losing citizenship and immigration status due to national security machinery and anxiety, these groups are also systematically barred from naturalization or regularizing their immigration status for similar reasons. A disturbing example is the application of clandestine reviews and internal checks that use unreliable methods to designate persons belonging to specific religious ethnic groups as inherent national security threats, thereby barring or delaying their naturalization.[92]

59. For a detailed analysis of the racial discrimination and intolerance targeting non-nationals and driven by national security and terrorism fears, the Special Rapporteur refers the Council to the 2017 reports of her predecessor, which also canvass the applicable international human rights law.[93]

C. Economic scapegoating of non-citizens

60. The economic effects of globalization have included escalating inequality. The continuing impact of the 2008 global financial crisis, for example, includes austerity measures that have impoverished many around the globe. Previous holders of this mandate have highlighted "the direct relationship between the increase in economic disparity and the increase in xenophobic and populist parties".[94] The resulting economic marginalization of large sectors of national populations continues to facilitate toxic scapegoating, in which migrants, refugees and other non-nationals bear the blame for the economic failures of Governments and the global neoliberal order. To make matters worse, opportunistic political leaders and extremist groups continue to use economic fears to justify punishing restrictions on the human rights of migrants. The Government of Israel, for example, has vowed to expel refugees and migrants whom it has labelled "infiltrators", "economic opportunists" and "criminals".[95] In Greece, refugees from so-called "undesirable" countries in North Africa and South Asia are being singled out, detained and put through fast-track asylum procedures before being returned to Turkey.[96]

61. The Special Rapporteur wishes to highlight that, especially with respect to refugees, the countries and Governments that have had the most racist and xenophobic responses to involuntary displacement in Europe, North America and Australasia in particular are not the countries that currently shoulder the primary economic implications of refugee admissions. In 2016, UNHCR reported that 84 per cent of the world's refugees under the UNHCR

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[92] For example, the American Civil Liberties Union has argued that the United States Controlled Application Review and Resolution Program uses unreliable methods of determining national security threats and often equates the practice of Islam and Muslim religious observance with terrorism. See Jennie Pasquarella, *Muslims Need Not Apply* (American Civil Liberties Union of Southern California, August 2013). Available at www.aclusocal.org/sites/default/files/carrp-muslims-need-not-apply-aclu-socal-report.pdf.

[93] See A/HRC/35/41, paras. 52–96; A/72/287, paras. 11–57.

[94] See A/HRC/35/41, para. 48.

[95] See OHCHR, "Israel: UN experts urge immediate halt of plans to deport Eritrean and Sudanese nationals", 1 March 2018. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22741&LangID=E. See also Ruth Eglash and Loveday Morris, "Q&A with Israel's Interior Minister Aryeh Deri: plan to deport thousands of Africans is not about race", *Washington Post*, 7 February 2018. Available at www.washingtonpost.com/news/worldviews/wp/2018/02/07/refugees-or-illegal-migrants-israels-plan-is-to-deport-them-by-force/?utm_term=.5d917cd434f8; A/HRC/22/67 and Corrs.1 and 2, p. 24 (ISR 8/2012).

[96] See Eleni Koutsaraki, "The indefinite detention of undesirable and unreturnable third-country nationals in Greece", *Refugee Survey Quarterly*, vol. 36, No. 1 (March 2017); Amnesty International, "Greece: lives on hold. Update on situation of refugees and migrants on the Greek islands", 14 July 2017. Available at www.amnesty.org/download/Documents/EUR2567452017ENGLISH.PDF.

mandate were being hosted in developing countries,[97] with some of the poorest and least xenophobic countries playing host to the largest numbers of refugees. Economic rhetoric used to justify refugee exclusion in wealthy countries should be rejected for the xenophobia and racism that is at its core. The Special Rapporteur on the human rights of migrants has noted that, notwithstanding the prevalence of narratives portraying migrants generally as an economic strain, "immigration has ... been found to have a minimal impact on unemployment of residents and a positive overall impact on employment generation and investment".[98]

62. In the Durban Declaration, States acknowledge the unequal distribution of the benefits of globalization and recognize "that interregional and intraregional migration has increased as a result of globalization, in particular from the South to the North" (paras. 11–12). They go on to stress that migration policies should not be based on racism, racial discrimination, xenophobia and related intolerance (para. 12). Yet still, racists and xenophobes — including in Governments all over the world — continue to take advantage of legitimate economic discontent to target non-nationals of specific racial, ethnic and religious groupings. Opportunistic political leaders and parties continue to strategically deploy inaccurate economic narratives about non-nationals of specific ethnicities, races and religions. In doing so, these leaders and parties distract national attention from political and economic elites among citizens, including through multinational corporations, all of whom are the persistent overrepresented beneficiaries of economic globalization.

V. Conclusion and recommendations

63. **In sum, racist and xenophobic ideologies rooted in ethno-nationalism regularly combine with national security fears and economic anxieties to violate the human rights of non-citizens, indigenous peoples and minorities on the basis of race, ethnicity, national origin and religion. Although the Special Rapporteur analyses each of the drivers separately in the present report, it is vital to maintain sight of their combined operation. The resurgence and spread of extreme right-wing racist ideology should be challenged alongside other discourses and drivers that are on their face more acceptable, but are in practice just as effective at targeting specific racial, ethnic or religious groups. National security and economic prosperity anxieties or concerns can have the ultimate effect of making racial and xenophobic discrimination and intolerance more socially acceptable. The value of distinguishing the different drivers is the subsequent capacity to develop tailored policies that are responsive to conditions on the ground.**

64. **In a number of recent cases, some courageous States and other actors within the United Nations system have publicly condemned instances of extreme xenophobic ethno-nationalism. These actions are to be encouraged and commended. However, in most instances of explicit ethno-nationalism, xenophobia and racism, even at the highest levels of political office, too many States remain silent. This silence amounts to complicity and the Special Rapporteur urges all States and multilateral regional bodies to take public, consistent and firm positions against all such incidents whenever they occur.**

65. **The Special Rapporteur urges all to be vigilant regarding the calculated and opportunistic ways in which many political leaders and parties continue to exploit the economic discontent and national security anxieties of their populations. States must refrain from pretextual use of exaggerated economic and national security concerns that are not grounded in objective reality in order to justify racist and xenophobic practices in the context of citizenship, nationality and immigration laws and policies. Legitimate economic and national security concerns will not be resolved by allowing populist but elite leaders who are already overrepresented beneficiaries of economic**

[97] UNCHR, *Global Trends: Forced Displacement in 2016*, p. 2. Available at http://www.unhcr.org/5943e8a34.pdf.

[98] See A/69/302, paras. 20, 25 and 98.

globalization instrumentally to use and further marginalize those who have not benefited in the same ways from the global neoliberal order.

66. In the light of these conclusions, the Special Rapporteur wishes to reiterate the recommendations made by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 30 on discrimination against non-citizens (sects. II–VII). She also recalls relevant good practices and recommendations made by her predecessors, particularly in reports relating to xenophobia (A/HRC/32/50), counter-terrorism (A/72/287), racial and ethnic profiling (A/HRC/29/46) and Islamophobia (A/HRC/15/53).

67. In addition, the Special Rapporteur urges States to adopt the following concrete measures aimed at eliminating and preventing racial discrimination in the context of citizenship, nationality and immigration:

(a) Ratify relevant instruments, including the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, and harmonize the definitions of racial discrimination against non-citizens, stateless persons and refugees within national laws in accordance with these instruments. This includes withdrawing reservations to these treaties that undermine the pursuit of substantive racial equality;

(b) Especially with respect to citizenship and nationality, adopt and implement article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, as explained by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 30. States are prohibited from restricting the rights of non-citizens in any way that is not proportionately tailored to achieve a legitimate aim grounded in the substantive racial equality framework of the Convention. Under the Convention relating to the Status of Refugees and the International Convention on the Elimination of All Forms of Racial Discrimination, blanket bans on specific nationalities and other immigration measures that exclude on the basis of race, colour, ethnicity or national origin are unlawful. States must take immediate steps to undo any measures of this sort;

(c) Take specific steps to end statelessness, including by putting an end to the practices and policies identified above that render persons stateless and in doing so, make them vulnerable to extreme human rights violations;

(d) Address intersectional discrimination, especially as it affects non-citizens on the basis of gender and religion, combined with other grounds;

(e) Make every effort to ensure that the Global Compact on Migration and the Global Compact for Refugees both place equality and non-discrimination principles at their centre. For the Global Compact on Migration, this means States must make an explicit commitment to protecting regular and irregular migrants from racial discrimination, as required by international human rights law.

68. A set of more concrete recommendations has been posted on the website of the Special Rapporteur.[99]

[99] See www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/Reports.aspx.

United Nations A/HRC/38/53

General Assembly

Distr.: General
25 April 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, pursuant to General Assembly resolution 72/156. In the report, the Special Rapporteur addresses recent, concerning shifts in ideologies and support for Nazism and neo-Nazism and their glorification. Contemporary manifestations of Nazism and neo-Nazism constitute continuing human rights and democratic challenges, and the Special Rapporteur recalls the applicable international human rights legal framework in this context. The Special Rapporteur highlights the broadening of neo-Nazi groups to embrace white nationalists and right-wing populist movements, and the manner in which this broadening poses a serious threat to many racial, ethnic and religious groups. Women, gender and sexually diverse populations, and persons with disabilities are also targets. She documents the recent political impact and popularity of neo-Nazism and its embrace even by political leaders at the highest levels of national office. She also surveys the role of technology in consolidating neo-Nazism and its harmful effects, especially where children and youth are concerned. In conclusion, the Special Rapporteur offers recommendations for future research and consultations in order for States to better understand and address the contemporary scourge of neo-Nazism. She also calls on civil society organizations to form unified, diverse coalitions in opposition to neo-Nazism.

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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to General Assembly resolution 72/156, in which the Assembly requested the Special Rapporteur to prepare, for submission to, inter alia, the Council at its thirty-eighth session, a report on the implementation of that resolution on combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

2. In the present report, the Special Rapporteur addresses concerning shifts in the ideologies and support for Nazism and neo-Nazism. She highlights, in particular, the contemporary resurgence and spread of support for neo-Nazi ideologies in different parts of the world, and the serious threat these ideologies pose to Jews, Muslims, people of African descent, Roma, indigenous peoples, women, racial and ethnic minorities, gender and sexually diverse populations, and persons with disabilities. Based on the previous reports to the General Assembly and to the Human Rights Council, as well as on desk research, her analysis examines these manifestations as contrary to human rights norms, including the principles of equality and human dignity. Notwithstanding its historically specific and geographically contained origins, neo-Nazi ideology remains a contemporary problem affecting diverse populations.

3. As mandated by General Assembly resolution 72/156, the Special Rapporteur intends to send questionnaires to member States and other relevant stakeholders in order to inform her next report to the General Assembly and collect their views with regard to combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance. She especially welcomes examples of strategies and practices that States have found successful in combating these phenomena.

II. Neo-Nazism: a brief overview

4. Nazi and neo-Nazi ideology are antithetical to the principles at the core of international human rights.[1] The very first article of the Universal Declaration of Human Rights affirms that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Member states have issued a clear statement that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere.[2]

5. Nazism and neo-Nazism reject racial equality and even advocate extreme violence[3] if necessary to achieve their vision of oppression and discrimination. At the core of these ideologies is an unwavering commitment to the protection of the "purity" of the "Aryan race" against other peoples who are cast as barbaric. Anti-Semitism is a central tool in this ideology, and the extermination of Jews during the Holocaust remains a potent reminder of why such ideology must never be tolerated and instead be vehemently combated. Neo-Nazi intolerance is not limited to Jews or people of Jewish descent. It also vilifies many other racial, ethnic and religious groups including Slavs, people of African descent and Muslims.

[1] The term "neo-Nazi" generally refers to movements and groups that draw on the ideology of the National Socialist German Workers Party. Movements in this category are broadly premised on the political philosophy advanced by Adolf Hitler in Nazi Germany, but adherents adopt a wide variety of other beliefs.

[2] International Convention on the Elimination of All Forms of Racial Discrimination, preamble.

[3] Holger H. Herwig, "*Geopolitik*: Haushofer, Hitler and lebensraum", *Journal of Strategic Studies*, vol. 22, No. 2–3 (1999), pp. 218–241.

While anti-Semitism, Islamophobia, xenophobia and racism are central, neo-Nazism also embraces homophobia and discrimination against people with disabilities.[4]

6. Although the philosophical commitments of Adolf Hitler are a central theme, neo-Nazism has different variants. Indeed, some groups emphasize simple hatred against historically discriminated groups, while others focus on the revolutionary creation of a fascist political State.[5] Neo-Nazism is also often closely aligned with white nationalism, which shares a core commitment to white racial supremacy and the inferiority of non-white people. This affiliation with white nationalism, as a contemporary trend of significance, is discussed in more detail below.

7. At its extreme edges, members of the neo-Nazi umbrella believe a war between races is imminent and thus seek to train and arm themselves in their quest for victory. These groupings consist of militarized clusters of racist skinhead adherents of radical right-wing ideology. Some activists acting on this belief and anticipating infiltration by security agencies adopt "lone wolf" campaigns characterized by small cells of activists acting without the leadership of the main group but drawing on its ideology to commit acts of violence and terrorism premised on the ideology. The Special Rapporteur would like to recall the horrendous act of terrorism that took place in Norway on July 2011 when Anders Behring Breivik killed 77 persons, including 69 young persons, for the cause of racial superiority. The killer clearly affiliated himself with neo-Nazi ideology, and his gruesome attack, whose victims included many white Norwegians, demonstrates clearly why neo-Nazism is a threat to nations as a whole, and not just to those racial and ethnic groups that are its direct target.

8. In addition to these extreme adherents, today supporters of this ideology who do not fit the conventional image of neo-Nazis are increasingly visible and proudly so.[6] Neo-Nazis also rely on various forms of popular culture to propagate their cause. For example, in countries where Nazism and holocaust denial were prohibited, music became an important tool used by neo-Nazi groups to spread their message and politicize potential followers. Indeed, the main activities of these organizations include publishing and consuming music and literature based on advancing Nazi ideology, staging grand meetings and making public proclamations.

9. Neo-Nazism is by no means a new phenomenon. The emergence of the transnational neo-Nazi movement can be traced back to as early as 1949 with the creation of the European Liberation Front in London.[7] Since then, the number of neo-Nazi-affiliated organizations has proliferated as new organizations and splinter groups emphasize different aspects of the ideology. In the late twentieth century, a neo-Nazi culture increasingly began to emerge in several different places worldwide, as local leaders imported ideas from Scandinavia and Western Europe.[8] Neo-Nazi organizations started demanding racial segregation and expulsion of non-white populations, especially in Europe and North America. These organizations attempted to create a consciousness of white superiority from which groups such as Jews, Roma and Sinti were among those excluded. Over time, the appeal of the neo-Nazism movement has expanded progressively beyond its traditional

[4] Raphael S. Ezekiel, "An ethnographer looks at neo-Nazi and Klan groups: the racist mind revisited", *American Behavioral Scientist*, vol. 46, No. 1 (2002), pp. 51–71.

[5] Southern Poverty Law Center, "Neo-Nazi". Available at https://www.splcenter.org/fighting-hate/extremist-files/ideology/neo-nazi.

[6] In one country, white nationalists willing to support neo-Nazi ideology include "young men wearing 'fashy' haircuts, khakis and polo shirts". Heidi Beirich and Susy Buchanan, "2017: the year in hate and extremism", Southern Poverty Law Center, 11 February 2018. Available at https://www.splcenter.org/fighting-hate/intelligence-report/2018/2017-year-hate-and-extremism#neo-nazi.

[7] Jean-Yves Camus, "Neo-Nazism in Europe", in *The Extreme Right in Europe*, Uwe Backes and Patrick Moreau, eds. (Göttingen, Vandenhoeck and Ruprecht, 2011), pp. 231–242.

[8] Ibid., p. 236.

geographic bounds to include neo-Nazi organizations in countries beyond Europe and North America.[9]

10. For many years, neo-Nazis were largely out of the mainstream, finding safe havens on the Internet or in small local and generally private gatherings. Neo-Nazi organizations were generally marginal and lacked political efficacy. However, in recent years, the rise of white nationalism and right-wing populist parties around the world — embracing hate speech towards specific groups of people that are generally despised by neo-Nazi groups — has permitted neo-Nazism to grow in relevance.[10] Media reports suggest that links between American and European neo-Nazis are strong and growing stronger. With good reason, the growing phenomenon of websites run by neo-Nazi and skinhead organizations is of increasing interest and concern to European institutions. Unfortunately, it remains the case that neo-Nazism is more than just the glorification of a past movement; it is a contemporary movement with strong vested interests in racial inequality and an investment in gaining broad support for its false claims of racial superiority.

III. Applicable legal framework

11. In the fight against the glorification of Nazism, neo-Nazism and other similar practices fuelling racial discrimination, xenophobia and intolerance, the Special Rapporteur wishes to recall that States have the following obligations.

12. As mentioned in the preamble to the International Convention on the Elimination of All Forms of Racial Discrimination, States have proclaimed with conviction that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere. Under article 5 of the Convention, States have undertaken to prohibit and eliminate racial discrimination in all its forms and to guarantee the right for everyone to enjoy various listed rights. According to article 4 of the Convention, States must condemn all propaganda and all organizations that are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or that attempt to justify or promote racial hatred and discrimination in any form. Under this provision, States have also undertaken to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination. Finally, article 4 also requires States to declare as offences punishable by law: all dissemination of ideas based on racial superiority or hatred; incitement to racial discrimination; all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin; and the provision of any assistance to racist activities, including the financing thereof.

13. The Special Rapporteur also wishes to remind States of their commitment under article 87 of the Durban Declaration to move forward in taking action against and condemning organizations that disseminate ideas based on racial superiority or hatred.

14. Article 19 of the International Covenant on Civil and Political Rights guarantees the fundamental right to hold opinions without interference. Significantly, article 20 of the Covenant provides a vital clarification of the scope of the human right to freedom of expression, namely that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

15. While recalling the relevant legal framework, the Special Rapporteur wishes to also reiterate that revisions of the Holocaust and attempts to falsify history not only contribute to

[9] See, for example, Marcos Chor Maio, "Against racism: search for an alliance between Afro-Brazilians and Brazilian Jews in the early 1990s", *Estudios Interdisciplinarios de América Latina y el Caribe*, vol. 10, No. 2 (2014). Available at http://eial.tau.ac.il/index.php/eial/article/view/1009/1044. Jacqueline Z. Wilson, "Racist and political extremist graffiti in Australian prisons, 1970s to 1990s", *Howard Journal of Crime and Justice*, vol. 47, No. 1 (2008).

[10] In one North American country, within the white supremacist movement, neo-Nazi groups saw the greatest growth of 22 per cent, rising from 99 to 121 groups. Camus, "Neo-Nazism in Europe", p. 238.

the rehabilitation and dissemination of Nazism and other extreme ideologies, but also create fertile ground for nationalist and neo-Nazi demonstrations.[11] Such revisionism may fall under the prohibition of hate speech under article 4 (a), which States are required to declare as offences punishable by law.

IV. Contemporary manifestations of glorification of Nazism and neo-Nazism

A. Neo-Nazism's broad ideological base and its social impact on racial equality

16. Neo-Nazism today regularly combines with other ideologies of racial superiority or hatred as a means of widening acceptance and strengthening its support base. The Special Rapporteur notes with concern the success of this strategy as suggested by growing support and acceptance of neo-Nazi ideology in an increasing number of countries. To name but one example, the former Special Rapporteur, in the report on his mission to Greece,[12] deplored the rise and normalization of neo-Nazi ideology and political parties grounded on this ideology, such as the Golden Dawn, which entered the Athens City Council in 2010 and Parliament in 2012. The leadership and members of Golden Dawn had openly praised Nazism and Adolf Hitler, and engaged in denial of the Holocaust and in anti-Semitic hate speech as well as hate rhetoric against migrants.

17. The resurgence of neo-Nazism in contemporary times has much to do with the broadening of this movement to include and contribute to various networks of white supremacist, racist and xenophobic projects, especially the project of white nationalism, and other extreme right-wing ideologies. This broadening of neo-Nazism has made it more accessible, and by forging allegiances with other groups espousing ideologies of racial hatred and superiority — including ideologies of white nationalism — neo-Nazi groups have expanded their reach. As discussed below in more detail, political leaders and even government officials at the highest level, have regrettably been complicit in this expansion.

18. The contemporary strengthening of neo-Nazism has had grave social consequences, including violent acts by groups connected to this movement and who share related ideologies of racial superiority and hatred.[13] In Europe and North America especially, there have been dramatic increases in anti-Semitic incidents tied to neo-Nazi groups and affiliated white supremacist and white nationalist groups. As noted by the former Special Rapporteur, several recent incidents were perpetrated by neo-Nazi-affiliated groups in Greece,[14] Estonia,[15] Latvia,[16] Bulgaria,[17] the United States of America,[18] Ukraine,[19] the Russian Federation[20] and Argentina,[21] to name a few. Contemporary iterations of Nazi ideology have grown in their traditional strongholds and in some cases expanded beyond them, posing a threat to racial equality in different parts of the world.

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[11] See A/HRC/23/24, para. 12.

[12] See A/HRC/32/50/Add.1, para. 51.

[13] OHCHR, "US racism on the rise, UN experts warn in wake of Charlottesville violence", released on 16 August 2017. Available at: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21975.

[14] See A/72/291, paras. 63–67.

[15] Ibid., paras. 68–70.

[16] Ibid., paras. 71–73.

[17] Ibid., paras. 74–76.

[18] See A/70/321, paras. 57–62.

[19] Ibid., paras. 63–67.

[20] A/HRC/26/21, p. 60, and a joint letter from the Special Rapporteur and the Special Rapporteur on the human rights of migrants (RUS 2/2014). Available at https://spdb.ohchr.org/hrdb/25th/Public_-_AL_Russia_20.02.14_(2.2014)_Pro.pdf.

[21] See A/71/325, para. 10; and A/70/321, para. 9.

19. In January 2018, anti-Semitic posts on social media and conversations denying the Holocaust rose by almost thirty per cent compared with the same period in 2016.[22] On average, around 550 posts a day used neo-Nazi and anti-Semitic symbols, and 108 posts a day denied the Holocaust.[23]

20. In the United States, anti-Semitic incidents rose by nearly 60 per cent, with 1,986 anti-Semitic incidents occurring in 2017.[24] Similarly, in the United Kingdom, anti-Semitic hate incidents have reached record highs, with a total of 1,382 recorded in 2017.[25] Germany has also seen a rise in hate crimes perpetrated by neo-Nazis.[26] Government intelligence agency reports also show an uptick in far-right violent crimes.[27]

21. An emerging neo-Nazi group in the United States, Atomwaffen, has been linked to the suspects of at least five recent murders.[28] A well-known white supremacist website, Stormfront.org, or as dubbed by the Southern Poverty Law Center, "the murder capital of the internet", is linked to almost 100 killings between 2009 and 2015.[29] White supremacist murders more than doubled in 2017 compared with 2016 — accounting for 18 of the total 34 extremist-related murders in the United States.[30]

B. The recent political impact and political popularity of neo-Nazism

22. The Special Rapporteur expresses her deep concerns at the general growing presence of expressions of Nazism, neo-Nazism and fascism in politics worldwide, especially in several European and North American countries. Neo-Nazi groups today are emboldened by prominent populist leaders who share their beliefs and espouse the same rhetoric as they do. Indeed, the rise of populism and, especially, right-wing, nationalist populism has, in some countries, aided the popularity of neo-Nazi ideology. Although many nationalist populist leaders in Europe, North America and Australia[31] formally disavow neo-Nazi ideology, they nonetheless express support for racist and xenophobic tenets that are premised on similar ideologies of racial superiority that are at the core of neo-Nazi ideology. All theories of racial superiority, and all efforts to scapegoat persons on the basis of their race, ethnicity, national origin, sexual orientation or related status make the work of neo-Nazis easier. Even where neo-Nazis are not formally included in Government, the presence therein of extreme right-wing ideologues can have the effect of injecting into governance and political discourse the very same ideologies that make neo-Nazism so dangerous.

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[22] See www.worldjewishcongress.org/en/news/holocaust-denial-and-anti-semitism-on-social-media-up-30-percent-in-january-2018-compared-to-2016-wjc-report-finds-2-3-2018.

[23] World Jewish Congress, "Anti-Semitic symbols and Holocaust denial in social media posts: January 2018". Available from the web page in the preceding footnote.

[24] Anti-Defamation League, "2017 audit of anti-Semitic incidents". Available at https://www.adl.org/resources/reports/2017-audit-of-anti-semitic-incidents.

[25] Community Security Trust, "Antisemitic incidents report 2017". Available at https://cst.org.uk/data/file/a/b/IR17.1517308734.pdf.

[26] Germany, Federal Ministry of the Interior, *Verfassungsschutzbericht 2016* (Berlin, 2017), pp. 23–24 and 40. Available at https://www.verfassungsschutz.de/embed/vsbericht-2016.pdf.

[27] Deutsche Welle, "Germany: far-right violence and Islamist threat on the rise", 4 April 2017. Available at www.dw.com/en/germany-far-right-violence-and-islamist-threat-on-the-rise/a-39534868.

[28] Anti-Defamation League, "Murder and extremism in the United States in 2017: an ADL Center on extremism report". Available at https://www.adl.org/resources/reports/murder-and-extremism-in-the-united-states-in-2017.

[29] Heidi Beirich, "White homicide worldwide" (Alabama, Southern Poverty Law Center, 2014). Available at https://www.splcenter.org/sites/default/files/d6_legacy_files/downloads/publication/white-homicide-worldwide.pdf.

[30] Anti-Defamation League press release, "ADL report: white supremacist murders more than doubled in 2017", 17 January 2018. Available at https://www.adl.org/news/press-releases/adl-report-white-supremacist-murders-more-than-doubled-in-2017. See also River Donaghey, "Armed neo-Nazi attempted terror attack on Amtrak train", Vice, 5 January 2018. Available at https://www.vice.com/en_us/article/7xewbg/armed-neo-nazi-attempted-terror-attack-on-amtrak-train-fbi-says-vgtrn.

[31] See A/HRC/35/41/Add.4, para. 51.

23. As a previous Special Rapporteur has noted, right-wing populism spreads and exploits antipathy towards ethnic, racial or religious minorities by accusing these groups of having co-opted political elites for their own advancement. Furthermore, as another Special Rapporteur has also noted, in times of great social, political and economic anxiety in the global North, it is among those who perceive themselves as the most marginalized (including among white majorities) that such antipathy can gain easy traction. To exploit the public's dissatisfaction with, and fear and resentment of, the conditions of the State and personal circumstances, right-wing populists adopt and advance opinions and trends that are likely to fuel populist mobilization. In this regard, the following statement by the United Nations High Commissioner for Human Rights captures a persisting dynamic:

> Populists use half-truths and oversimplification — the two scalpels of the arch propagandist, and here the Internet and social media are a perfect rail for them, by reducing thought into the smallest packages: sound-bites; tweets. Paint half a picture in the mind of an anxious individual, exposed as they may be to economic hardship and through the media to the horrors of terrorism. Prop this picture up by some half-truth here and there and allow the natural prejudice of people to fill in the rest. Add drama, emphasizing it is all the fault of a clear-cut group, so the speakers lobbing this verbal artillery, and their followers, can feel somehow blameless.
>
> The formula is therefore simple: make people, already nervous, feel terrible, and then emphasize it is all because of a group, lying within, foreign and menacing. Then make your target audience feel good by offering up what is a fantasy to them, but a horrendous injustice to others. Inflame and quench, repeat many times over, until anxiety has been hardened into hatred.[32]

24. Right-wing populists in some nations have shown themselves willing to align with white nationalists and even neo-Nazis. In the last presidential election in the United States, President Trump's reliance on a political platform regularly espousing white nationalist beliefs and vilifying racial, religious and national minorities created a safe harbour for neo-Nazi ideology and action.[33] Following the election of President Trump, he has on grave occasion failed to condemn in an outright manner the glorification of neo-Nazism.[34]

25. In some countries in which expressions of Nazism and fascism are not prohibited, several neo-Nazi parties have emerged and contested electoral processes. In some European countries, political parties aligning themselves with neo-Nazi ideologies have emerged in mainstream politics. Some such parties have achieved varying levels of electoral success,

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[32] Speech delivered at the Peace, Justice and Security Foundation gala, The Hague, 5 September 2016. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20452.

[33] Ibid. In that statement, the High Commissioner for Human Rights condemned the presidential candidate and other political leaders in Europe whose racial ideologies have made the world a more hospitable place for outright neo-Nazism. See Jessica Reaves, "White supremacists celebrate Trump's victory", Anti-Defamation League, 10 November 2016 (available at https://www.adl.org/blog/white-supremacists-celebrate-trumps-victory?_ga=2.8537333.1383705201.1522706891-505254518.1522706891); Anti-Defamation League, "ADL deeply concerned over reports of anti-Semitic & hate incidents following election 2016", 14 November 2016 (available at https://www.adl.org/news/press-releases/adl-deeply-concerned-over-reports-of-anti-semitic-hate-incidents-following); Human Rights Watch, "Update: US President Trump's response to Charlottesville events", 14 August 2017 (available at https://www.hrw.org/news/2017/08/14/update-us-president-trumps-response-charlottesville-events); Anti-Defamation League, "White supremacists react gleefully to President Trump's 'rogue' press conference", 17 August 2017 (available at https://www.adl.org/blog/white-supremacists-react-gleefully-to-president-trumps-rogue-press-conference); and Anti-Defamation League, "Anti-Semitic incidents in the U.S. in the wake of Charlottesville rally", 30 August 2017 (available at https://www.adl.org/blog/anti-semitic-incidents-in-the-us-in-the-wake-of-charlottesville-rally).

[34] Committee on the Elimination of Racial Discrimination, "UN body criticizes US 'failure at the highest political level to unequivocally reject racist violent events'", 23 August 2017. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21990. OHCHR, "US racism on the rise, UN experts warn in wake of Charlottesville violence", 16 August 2017. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21975. Beirich and Buchanan, "2017: the year in hate and extremism".

allowing them in some cases to secure legislative seats. As of July 2017, right-wing populist parties were in Government in eight European countries: Finland, Greece, Hungary, Latvia, Norway, Poland, Slovakia and Switzerland, while there are three nationalist parties that are now part of the governing coalition in Bulgaria.[35] It was estimated that the total number of European voters who supported a populist party in their latest general elections amounted to 21.4 per cent.[36]

26. In sum, white supremacist and neo-Nazi ideologies have a symbiotic relationship with right-wing populism, each strengthening the other. By adopting the language and core ideas of these extreme ideologies, right-wing populists gain political power by mobilizing these groups to vote for them. In turn, when populist politicians gain mainstream success, white nationalist and neo-Nazi ideas become more socially acceptable. Emboldened by seeing leaders sympathetic to their cause in Government, white supremacists and neo-Nazis increasingly occupy public platforms and recruit new members.

C. The role of technology in the spread of neo-Nazi ideology

27. Neo-Nazis and white supremacist groups have taken advantage of new digital technologies and social platforms to promote their ideologies and arguments.[37] Indeed, the Internet has made it easier for people to communicate, express their views and engage in debate across vast distances. The Internet has also provided groups espousing racial superiority and hatred with effective platforms for spreading their messages, organizing events and raising money.[38] The anonymity provided by the Internet and social media allows people to express views that they would deny in public.[39] Moreover, the interactivity of new social media platforms allows for the easier creation of virtual communities in which extremists can easily disseminate information to their target audiences.[40]

1. Digital recruitment, especially of youth

28. The Internet, and social media in particular, have become a growing means through which neo-Nazi groups recruit followers. It is documented that hate groups such as these usually direct their recruitment efforts at targeting susceptible individuals, such as loners and children. Groups espousing racial superiority — including neo-Nazis — have increasingly targeted children and youth as recruits because they are typically more impressionable, may feel alone and marginal, and desire a sense of identity and group belonging.[41] Some neo-Nazi websites are specifically tailored towards children, with the aim of their indoctrination. Neo-Nazi websites appeal to children through music, activities, games, "memes" and cartoon characters on their websites.[42] Indeed, even video games exist

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[35] See https://timbro.se/app/uploads/2017/07/briefing-timbro-authoritarian-populism-index-2017.pdf. The three nationalist parties in Bulgaria are: Attack, the Bulgarian National Movement and the National Front for the Salvation of Bulgaria.

[36] Ibid.

[37] See A/HRC/26/49, para. 18. For example, the major hate forum, Stormfront, now has more than 300,000 members. Mark Potok, "The year in hate and extremism", Southern Poverty Law Center, 17 February 2016. Available at https://www.splcenter.org/fighting-hate/intelligence-report/2016/year-hate-and-extremism. The site has been adding about 25,000 registered users annually for several years.

[38] Francie Diep, "How social media helped organize and radicalize America's white supremacists", *Pacific Standard*, 15 August 2017. Available at https://psmag.com/social-justice/how-social-media-helped-organize-and-radicalize-americas-newest-white-supremacists.

[39] LaShel Shaw, "Hate speech in cyberspace: bitterness without boundaries", *Notre Dame Journal of Law, Ethics and Public Policy*, vol. 25, No. 1 (2012), pp. 279–304.

[40] Gabriel Weimann, "Terrorist migration to social media", *Georgetown Journal of International Affairs*, vol. 16, No. 1 (2015), pp. 180–187, at p. 181.

[41] Ibid.

[42] Michael Edison Hayden, "Neo-Nazi website Daily Stormer is 'designed to target children' as young as 11 for radicalization, editor claims", *Newsweek*, 16 January 2018. Available at www.newsweek.com/website-daily-stormer-designed-target-children-editor-claims-782401. See also Julian Baumrin, "Internet hate speech and the First Amendment, revisited", *Rutgers Computer & Technology Law Journal*, vol. 37, No. 1–2 (2011), p. 230 ("typical methods of attraction include

that are devoted to propagating ideologies of racial superiority and racial hatred. One example of such a game brought to the attention of the Special Rapporteur involves the player playing the role of a neo-Nazi person tasked with killing non-whites or groups identified as enemies by neo-Nazi groups. Furthermore, some of the neo-Nazi websites and forums include revisionist historical educational lessons for children.

29. A study done by the United Nations Educational, Scientific and Cultural Organization entitled "Youth and Violent Extremism on Social Media" explains that, while there is some correlation between youth violence and extremist propaganda, the exact roles of the Internet and social media in contributing to the radicalization process needs further exploration.[43]

2. Digital platforms as sites of hate speech and incitement to violence

30. In addition to recruitment, neo-Nazis and other hate groups also use digital platforms to incite hatred and violence on racial, ethnic, religious and related grounds.[44, 45] The ease and rapidity with which information can now be shared online, especially through social media platforms, means these platforms have now become arguably the most frequent sites of hate speech, and even incitement to violence. These platforms have facilitated the global transmission of harmful stereotypes against stigmatized groups targeted by groups such as neo-Nazis. Such stereotypes and related propaganda make violence against targeted groups more acceptable and arguably more likely.[46] In addition, neo-Nazi and related groups have also relied on online platforms to plan and circulate information about public events that range from demonstrations to acts of violence, including targeting groups and individuals on the basis of race, ethnicity, national origin, religion, gender, sexual orientation and related grounds.

31. As just mentioned, digital platforms are now a hotbed for the spread of ideologies of racial superiority. YouTube is the main content generator for some of the most intense right-wing media. YouTube stores billions of videos and has a massive reach of over 1.5 billion viewers a month.[47] It directs viewers to videos based on videos previously watched; thus, a person who watches a neo-Nazi video will be directed to similar content. Notably, videos are used by neo-Nazis to help create false images.[48] For example, a video of a neo-

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cloaking racist and xenophobic messages within music, games, activities, and cartoon characters"); John M. Cotter, "Sounds of hate: white power rock and roll and the neo-Nazi skinhead subculture", *Terrorism and Political Violence*, vol. 11, No. 2 (1999), p. 121; James Paul Gee, "Stories, probes, and games", *Narrative Inquiry*, vol. 21, No. 2 (2011), p. 356; and Phyllis B. Gerstenfeld, Diana R. Grant and Chau-Pu Chiang, "Hate online: a content analysis of extremist Internet sites", *Analyses of Social Issues and Public Policy*, vol. 3, No. 1 (2003), pp. 29–44, at p. 35.

[43] Séraphin Alava, Divina Frau-Meigs and Ghayda Hassan, *Youth and Violent Extremism on Social Media: Mapping the Research* (Paris, United Nations Educational, Scientific and Cultural Organization, 2017). Available at http://unesdoc.unesco.org/images/0026/002603/260382e.pdf.

[44] See, for example, Beirich, "White homicide worldwide" (analysing the connection between membership in an online platform espousing ideologies of racial superiority, incitement to violence and actual violence against targeted groups); and Diep, "How social media helped organize and radicalize America's white supremacists" (discussing the use of social media to coordinate a rally that included neo-Nazis and other hate groups and at which 1 person was killed and 19 others injured).

[45] Beirich, "White homicide worldwide".

[46] Kusminder Chahal, *Supporting Victims of Hate Crime: A Practitioner's Guide* (Bristol, Policy Press, 2016); Danielle Keats Citron and Helen L. Norton, "Intermediaries and hate speech: fostering digital citizenship for our information age", *Boston University Law Review*, vol. 91 (2011), p. 1437; Travis Morris, "Networking vehement frames: neo-Nazi and violent jihadi demagoguery", *Behavioural Sciences of Terrorism and Political Aggression*, vol. 6, No. 3 (2014), pp. 163–182, at pp. 163–171; and Linda M. Woolf and Michael R. Hulsizer, "Intra- and inter-religious hate and violence: a psychosocial model", *Journal of Hate Studies*, vol. 2, No. 5 (2003), pp. 5–25.

[47] Bob Moser, "How YouTube became the worldwide leader in white supremacy", *New Republic*, 21 August 2017. Available at https://newrepublic.com/article/144141/youtube-became-worldwide-leader-white-supremacy.

[48] Brentin Mock, "Neo-Nazi groups share hate via YouTube", Southern Poverty Law Center, 20 April 2007. Available at https://www.splcenter.org/fighting-hate/intelligence-report/2007/neo-nazi-groups-share-hate-youtube.

Nazi rally in one country blurred out anti-racist protestors to help present a powerful image of a particular branch of neo-Nazis.[49]

32. Twitter has been utilized as a primary social media platform to exercise attacks on journalists. Journalists rely on Twitter to share information and publish their work. During the recent United States presidential campaign, anti-Semitic language was used in 2.6 million tweets generating more than 10 billion impressions.[50] A significant number of the anti-Semitic tweeters identified as supporters of the nationalist populist candidate who eventually won that election.[51] These tweets were directed primarily at Jewish journalists as well as non-Jewish journalists who criticized that candidate.[52]

33. As social media platforms attempt to combat neo-Nazi and other ideologies of hate, a challenge they face is the variation in national standards prohibiting hate speech. Countries that have legal frameworks that protect speech that is prohibited elsewhere ultimately serve as safe havens for neo-Nazi speech.[53] Consequently, many hate groups host their sites on Internet service providers in the United States.[54]

34. Although social media companies are slowly working towards a better control of content posted on their platforms,[55] as recommended by the Committee on the Elimination of Racial Discrimination in its general recommendation No. 35 (2013) on combating racist hate speech, there is still much work to be done effectively to address racial hatred and intolerance online.[56]

V. Conclusion and recommendations

35. **There are deep structural causes behind the rise of extreme and unashamed ideologies of racial superiority, including neo-Nazism. These require reform at a fundamental level, including counteracting the economic inequality that can catalyse intolerance and discrimination. At the same time, there are discrete measures that States can take to combat some of the trends identified in this report, especially the role of technology in aiding neo-Nazism, and the effects of neo-Nazism on children and youth, and their involvement in affiliated groups. As a matter of priority, more research is required to develop a better understanding of these two issues. As a result, the Special Rapporteur makes the following recommendations to member States:**

(a) **The Special Rapporteur reiterates the recommendations contained in the reports of her predecessors to the Human Rights Council and the General Assembly, as they remain valid and current. She also urges States to take immediate measures to combat direct and indirect manifestations of neo-Nazism, racism and related intolerance, including implementing legal sanctions;**

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[49] Ibid.

[50] Anti-Defamation League, "Anti-Semitic targeting of journalists during the 2016 presidential campaign" (New York, 19 October 2016). Available at https://www.adl.org/sites/default/files/documents/assets/pdf/press-center/CR_4862_Journalism-Task-Force_v2.pdf.

[51] Ibid.

[52] Ibid.

[53] For example, the legal frameworks of one North American country have been favourable to neo-Nazi and other hate groups propagating hate speech. Peter J. Breckheimer, "A haven for hate: the foreign and domestic implications of protecting internet hate speech under the First Amendment", *Southern California Law Review*, vol. 75 (2002), pp. 1493–1528, at p. 1506. Ira Steven Nathenson, "Super-intermediaries, code, human rights", *Intercultural Human Rights Law Review*, vol. 8, No. 19 (2013), pp. 96–97.

[54] Ibid.

[55] Julia Fioretti, "Social media companies accelerate removals of online hate speech: EU", Reuters. Available at https://www.reuters.com/article/us-eu-hatespeech/social-media-companies-accelerate-removals-of-online-hate-speech-eu-idUSKBN1F806X.

[56] See A/HRC/26/49, para. 17.

(b) **The Special Rapporteur urges States to assist civil society organizations representing the spectrum of populations directly impacted by contemporary manifestations of neo-Nazism and related intolerance, by providing them with the resources necessary to form and sustain diverse and transnational coalitions. Notwithstanding its historically specific and geographically contained origins, neo-Nazi ideology remains a contemporary problem affecting diverse populations as discussed above. Its common impact on peoples of different racial, ethnic, religious or related groups should unite these groups, including across borders, in the fight against neo-Nazism;**

(c) **In the light of General Assembly resolution 72/156, which mandates the present report, the Special Rapporteur wishes to echo the Assembly's encouragement of States that have made reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to withdraw these reservations due to its obligatory character. She also calls upon States to continue taking steps through national legislation in accordance with international human rights law, aimed at preventing hate speech and incitement to violence. States must withdraw support — financial and otherwise — from political parties and other organizations that engage in neo-Nazi or other hate speech or fail forcefully to condemn such speech by their members. Where such hate speech aims, or can reasonably be expected to incite violence, States must take steps to dismantle the responsible organizations;**

(d) **States should provide resources, including to this mandate, for research and consultations, including with stakeholders such as private technology and social media companies, in order to deepen international understanding of how technology is aiding the spread of racial and related intolerance. This research should also produce recommendations for concrete steps for combating the advance of neo-Nazism through online technologies;**

(e) **States should provide resources, including to this mandate, for research and consultations, including technology and social media companies and experts in child psychology, to deepen international understanding of the impact of neo-Nazism on youth and children, and the factors that draw youth to neo-Nazi movements. This research and related consultations should also produce a blueprint for combating youth and child involvement in neo-Nazism;**

(f) **States must also take immediate measures to combat direct and indirect manifestations of neo-Nazism, racism, xenophobia and related intolerance affecting youth and children, including their recruitment to extremist groups.**

36. **For her next report to the General Assembly on neo-Nazism, the Special Rapporteur respectfully calls on States to share information on their concerns and good practices with respect to technology and youth where neo-Nazism is concerned, as outlined in this report. She will issue a formal call for submissions in this regard in due course.**

United Nations A/HRC/38/54

General Assembly

Distr.: General
5 June 2018

English only

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda items 3, 4, 7, 9 and 10
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Human rights situations that require the Council's attention

Human rights situation in Palestine and other occupied Arab territories

Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Technical assistance and capacity-building

Communications report of Special Procedures*

Communications sent, 1 December 2017 to 28 February 2018; Replies received, 1 February to 30 April 2018

Joint report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Working Group of Experts on people of African descent; the Independent Expert on the enjoyment of human rights of persons with albinism; the Working Group on Arbitrary Detention; the Special Rapporteur on the situation of human rights in Belarus; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the situation of human rights in Cambodia; the Independent Expert on the situation of human rights in Central African Republic; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on right to development; the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea; the Special Rapporteur on the rights of persons with disabilities; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to education; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment;

* The present report is circulated as received.

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the Special Rapporteur on the situation of human rights in Eritrea; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the rights of indigenous peoples; the Special Rapporteur on the human rights of internally displaced persons; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members; the Independent Expert on the situation of human rights in Mali; the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues; the Special Rapporteur on the situation of human rights in Myanmar; the Independent Expert on the enjoyment of all human rights by older persons; the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; the Special Rapporteur on extreme poverty and human rights; the Special Rapporteur on the right to privacy; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on contemporary forms of slavery; the Independent Expert on the situation of human rights in the Sudan; the Independent Expert on the situation of human rights in Somalia; the Special Rapporteur on the situation of human rights in the Syrian Arab Republic; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the promotion of truth, justice, reparation & guarantees of non-recurrence; the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on the human rights to safe drinking water and sanitation; and the Working Group on the issue of discrimination against women in law and in practice.

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Abbreviations

African Descent	Working Group of Experts on people of African descent
Albinism	Independent Expert on the enjoyment of human rights by persons with albinism
Arbitrary detention	Working Group on Arbitrary Detention
Belarus	Special Rapporteur on the situation of human rights in Belarus
Burundi	Special Rapporteur on the situation of human rights in Burundi
Business enterprises	Working Group on the issue of human rights and transnational corporations and other business enterprises
Cambodia	Special Rapporteur on the situation of human rights in Cambodia
Central Africa	Independent Expert on the situation of human rights in the Central African Republic
Côte d'Ivoire	Independent Expert on capacity-building and technical cooperation with Côte d'Ivoire in the field of human rights
Cultural Rights	Special Rapporteur in the field of cultural rights
Development	Special Rapporteur on the right to development
Disability	Special Rapporteur on the rights of persons with disabilities
Disappearances	Working Group on Enforced or Involuntary Disappearances
Discrimination against women	Working Group on the issue of discrimination against women in law and in practice
DPR Korea	Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea
Education	Special Rapporteur on the right to education
Environment	Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment
Eritrea	Special Rapporteur on the situation of human rights in Eritrea
Extreme poverty	Special Rapporteur on extreme poverty and human rights
Food	Special Rapporteur on the right to food
Foreign debt	Independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights
Freedom of expression	Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
Freedom of peaceful assembly and of association	Special Rapporteur on the rights to freedom of peaceful assembly and of association
Freedom of religion	Special Rapporteur on freedom of religion or belief
Haiti	Independent Expert on the situation of human rights in Haiti
Hazardous substances and wastes	Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes
Health	Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
Human rights defenders	Special Rapporteur on the situation of human rights defenders
Housing	Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Independence of judges and lawyers	Special Rapporteur on the independence of judges and lawyers
Indigenous peoples	Special Rapporteur on the rights of indigenous peoples
Internally displaced persons	Special Rapporteur on the human rights of internally displaced persons
International order	Independent expert on the promotion of a democratic and equitable international order
International Solidarity	Independent Expert on Human Rights and International solidarity
Iran	Special Rapporteur on the situation of human rights in the Islamic Republic of Iran
Leprosy	Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members
Mali	Independent Expert on the situation of human rights in Mali
Mercenaries	Working Group on the use of mercenaries
Migrants	Special Rapporteur on the human rights of migrants
Minority issues	Special Rapporteur on Minority Issues
Myanmar	Special Rapporteur on the situation of human rights in Myanmar
OPT	Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967
Older persons	Independent Expert on the enjoyment of all human rights by older persons
Privacy	Special Rapporteur on the right to privacy
Racism	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
Sale of children	Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material
Sexual orientation and gender identity	Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity
Slavery	Special Rapporteur on contemporary forms of slavery
Somalia	Independent Expert on the situation of human rights in Somalia
Sudan	Independent Expert on the situation of human rights in the Sudan
Summary executions	Special Rapporteur on extrajudicial, summary or arbitrary executions
Terrorism	Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
Torture	Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
Trafficking	Special Rapporteur on trafficking in persons, especially women and children
Truth justice, reparation & guarantees on non-recurrence	Special Rapporteur on the promotion of truth, justice, reparation & guarantees of non-recurrence
Unilateral coercive measures	Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights
Violence against women	Special Rapporteur on violence against women, its causes and consequences
Water and Sanitation	Special Rapporteur on the human right to safe drinking water and sanitation

Other abbreviations

AL	Letter of allegation

JAL	Joint letter of allegation
JUA	Joint urgent appeal
UA	Urgent appeal
OL	Other letter

I. Introduction

1. Special procedures are mandated by the Human Rights Council to report to it on their activities (see Appendix).

2. In 2009, the sixteenth annual meeting of special procedures mandate holders decided that a joint communications report would be prepared (cf. A/HRC/12/47, paras 24-26), with this decision being reconfirmed by the seventeenth annual meeting of special procedures in 2010 in order to avoid duplication, rationalize documentation, allow examination of cross cutting issues and ensure that the content of communications and any follow-up would feed into the universal periodic review mechanism more effectively. Mandate holders decided that the report should contain summaries of communications and statistical information (A/HRC/15/44, para. 26-27).

3. The Outcome of the review of the work and functioning of the Human Rights Council calls on the Office of the High Commissioner for Human Rights to maintain information on special procedures in a comprehensive and easily accessible manner, and encourages the use of modern information technology to reduce the circulation of paper (A/HRC/RES/16/21, Annex, paras. 29 and 60).

4. All short summaries of allegations communicated to the respective State or other entity are made available on the Special Procedures communications website, link to which is included in paragraph 13 of the present report. The communications sent and responses received are also accessible electronically through hyperlinks. Communications are reproduced in the language in which they were sent. Replies received in Arabic, Chinese or Russian are included with translations into English, where available.

5. This website now reports all urgent appeals, and letters of allegations sent by special procedures mandate holders between 1 December 2017 and 28 February 2018 and replies received until 30 April 2018. Communications sent before 1 December 2017 are reported in A/HRC/37/80, A/HRC/36/25, A/HRC/35/44, A/HRC/34/75, A/HRC/33/32, A/HRC/33/32 corr.1, A/HRC/32/53, A/HRC/31/79, A/HRC/30/27, A/HRC/29/50, A/HRC/28/85, A/HRC/27/72, A/HRC/26/21, A/HRC/25/74, A/HRC/24/21, A/HRC/23/51, A/HRC/22/67, A/HRC/22/67 corr.1 and corr.2, A/HRC/21/49, A/HRC/20/30, A/HRC/19/44 and A/HRC/18/51 respectively and are also made available on the dedicated website.

6. As part of this report, the special procedures communications website also includes replies received between 1 February and 30 April 2018 relating to communications sent by special procedures mandate holders before 1 December 2017. Some of these replies supplement information communicated earlier by the respective State.

7. The present report contains urgent appeals sent by the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances and joint urgent appeals sent by them together with other mandates. It does not contain other types of communications issued by these mandates, which are processed according to their own distinctive procedures, and are reported in the annual reports of these two working groups.

8. The names of some alleged victims have been obscured in order to protect their privacy and prevent further victimization. Names of victims who would otherwise have their identities protected are mentioned only when the individual concerned or their direct family has expressly consented or requested to have his or her name in the public report. In the original communications, the full names of the alleged victims were provided to the Government concerned. Names of alleged perpetrators have systematically been darkened in State replies to preserve the presumption of innocence.

9. In total 154 communications were sent during this reporting period to 67 countries and other non-State actors to which replies were received from 80 countries and other actors as listed below:

Name of countries	*Number of communications sent*	*Replies received*
Afghanistan	1	0
Algeria	1	1
Argentina	1	1
Australia	2	0
Azerbaijan	1	1
Bahamas	1	0
Bahrain	4	3
Bangladesh	2	1
Benin	1	1
Brazil	2	0
Burundi	1	1
Cambodia	3	1
China	4	3
Colombia	3	2
Cuba	1	1
Democratic Republic of the Congo	3	0
Denmark	1	1
Ecuador	1	0
Egypt	5	1
Equatorial Guinea	1	0
Eritrea	1	1
France	1	0
Guatemala	3	2
Haiti	1	1
Honduras	2	1
India	5	0
Indonesia	1	1
Iran (Islamic Republic of)	6	2
Iraq	1	1
Israel	5	1
Japan	1	1
Jordan	1	1
Kazakhstan	3	2
Kenya	3	0
Latvia	3	3
Libya	2	0
Maldives	2	0

Name of countries	*Number of communications sent*	*Replies received*
Mauritania	2	2
Mexico	4	3
Morocco	2	2
Myanmar	1	1
Nigeria	2	0
Other actors	8	5
Pakistan	2	0
Paraguay	1	0
Peru	3	3
Philippines	6	3
Poland	2	1
Romania	2	0
Russian Federation	4	4
Saudi Arabia	2	1
Serbia	1	0
Sierra Leone	1	0
Singapore	1	1
South Africa	1	0
Sudan	1	0
Thailand	3	2
Togo	1	1
Tunisia	1	0
Turkey	6	6
Uganda	1	0
United Kingdom of Great Britain and Northern Ireland	3	3
United Republic of Tanzania	1	0
United States of America	6	3
Venezuela (Bolivarian Republic of)	3	2
Viet Nam	2	2
Yemen	1	0

10. During the period, 8 communincations were also sent to 'Other actors', for e.g. businesses, international bodies, agencies and non-State actors to which 5 replies was received.

11. These communications concerned 416 alleged identified victims of which 271 are male, 57 are female and 88 others.

12. In preparing the statistics included in this report, uniform reporting periods have been used, reflecting all communications sent between 1 December 2017 and 28 February 2018, and responses received in relation to these communications up to 30 April 2018.

II. Statistics on communications and replies by mandate

Mandate	Reporting period: 1 December 2017 to 28 February 2018			Reporting period: 1 June 2006 to 28 February 2018		
	Communications sent	replied to by 30 April 2018	response rate[a]	Communications sent	replied to by 30 April 2018	response rate[a]
African Descent	2	2	100%	31	20	65%
Albinism	1	1	100%	7	2	29%
Arbitrary Detention (*)	47	26	55%	1567	879	56%
Belarus*	0	0	0%	12	9	75%
Burundi **	0	0	0%	6	0	0%
Business	13	7	54%	130	77	59%
Cambodia	2	1	50%	37	9	24%
Central African Republic	0	0	0%	1	0	0%
Cultural rights	5	3	60%	102	72	71%
Democratic People's Republic of Korea	0	0	0%	11	3	27%
Disability	7	6	86%	53	36	68%
Disappearances (*)	10	4	40%	402	187	47%
Education	6	4	67%	92	61	66%
Environment	8	6	75%	89	52	58%
Eritrea	3	3	100%	6	3	50%
Executions	36	21	58%	1419	705	50%
Food	4	2	50%	233	98	42%
Foreign debt	0	0	0%	22	14	64%
Freedom of opinion and expression	76	42	55%	3031	1623	54%
Freedom of peaceful assembly and of association	0	0	0%	1155	672	58%
Haiti **	0	0	0%	13	3	23%
Hazardous substances***	12	8	67%	92	58	63%
Health	20	11	55%	670	403	60%
Housing	3	1	33%	332	169	51%
Human rights defenders	64	34	53%	3265	1844	57%
Independence of judges and lawyers	13	7	59%	1194	660	55%
Indigenous peoples	16	9	56%	442	260	59%
Internally displaced persons	3	3	100%	35	18	51%
International order	0	0	0%	33	26	79%
International solidarity	0	0	0%	14	13	93%
Islamic Republic of Iran	4	1	25%	173	97	56%
Liberia **	0	0	0%	2	0	0%
Mercenaries	0	0	0%	73	28	38%
Migrants	7	4	57%	286	189	66%
Minority issues	10	4	40%	290	167	58%
Myanmar	1	1	100%	117	61	52%
Older persons	0	0	0%	2	2	100%
Palestinian territories occupied since 1967	2	0	0%	50	11	22%
Poverty	4	2	50%	91	64	70%
Privacy	1	1	100%	26	23	89%
Racism	9	6	67%	150	94	63%
Religion or belief	13	6	46%	490	291	59%
Sale of children	0	0	0%	67	28	42%

Mandate	Reporting period: 1 December 2017 to 28 February 2018			Reporting period: 1 June 2006 to 28 February 2018		
	Communications sent	replied to by 30 April 2018	response rate#	Communications sent	replied to by 30 April 2018	response rate#
Sexual orientation and gender identity	1	1	100%	15	9	60%
Slavery	0	0	0%	58	33	57%
Somalia	0	0	0%	20	6	30%
Sudan	2	1	50%	43	10	23%
Terrorism	15	9	60%	310	152	49%
Torture	34	19	56%	2287	1268	55%
Trafficking in persons	0	0	0%	81	48	59%
Truth, justice, reparation and guarantees of non-recurrence	5	4	80%	59	34	58%
Unilateral coercive measures	0	0	0%	4	4	100%
Violence against women	10	5	50%	581	319	55%
Water and sanitation	3	2	67%	97	62	64%
Women in law and in practice	6	1	17%	253	119	47%

(*) mandate re-established in June 2012, (**) mandate terminated, (***) mandate name changed from 'toxic waste'

(+) These figures do not include communications on standard cases sent to Governments by the Working Group on arbitrary detention and the Working Group on enforced or involuntary disappearances.

(#) fractions in percentage are rounded to the nearest whole number.

Please note: Totals are higher than the actual number of communications sent or replies received in the given period, as many communications are sent jointly by two or more mandate holders.

III. Communications sent and replies received

Communications sent between 1 December 2017 and 28 February 2018 and their replies received until 30 April 2018. Also all replies received during this period to communications sent before 1 December 2017

13. All communications and their replies are available through Special Procedures communications website at the link:

https://spcommreports.ohchr.org

Appendix

Mandates of special procedures *(until 31 March 2018)*

Mandate title	*Human Rights Council resolution*
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	34/9
Working Group of Experts on people of African descent	36/23
Independent Expert on the enjoyment of human rights of persons with albinism	37/5
Working Group on Arbitrary Detention	33/30
Special Rapporteur on the situation of human rights in Belarus	35/27
Special Rapporteur on the situation of human rights in Cambodia	30/23
Independent Expert on the situation of human rights in Central African Republic	33/27
Independent Expert on capacity-building and technical cooperation with Côte d'Ivoire (Mandate formally closed by HRC President Statement PRST 35/1)	26/32
Special Rapporteur in the field of cultural rights	37/12
Independent expert on the promotion of a democratic and equitable international order	36/4
Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea	34/24
Special Rapporteur on the rights of persons with disabilities	35/6
Special Rapporteur on right to development	33/14
Special Rapporteur on the situation of human rights in Eritrea	35/35
Working Group on Enforced or Involuntary Disappearances	36/6
Independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights	34/3
Special Rapporteur on the right to education	35/2
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment	37/8
Special Rapporteur on extreme poverty and human rights	35/19
Special Rapporteur on the right to food	32/8
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	34/18
Special Rapporteur on the rights to freedom of peaceful assembly and of association	32/32

Mandate title	*Human Rights Council resolution*
Special Rapporteur on freedom of religion or belief	31/16
Independent Expert on the situation of human rights in Haiti (Mandate formally closed by HRC President Statement : PRST 34/1)	PRST 25/1
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	33/9
Special Rapporteur on the situation of human rights defenders	34/5
Special Rapporteur on the independence of judges and lawyers	35/11
Special Rapporteur on the rights of indigenous peoples	33/12
Special Rapporteur on the human rights of internally displaced persons	32/11
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran	34/23
Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members	35/9
Independent Expert on the situation of human rights in Mali	34/39
Working Group on the use of mercenaries	33/4
Special Rapporteur on the human rights of migrants	34/21
Special Rapporteur on minority issues	34/6
Special Rapporteur on the situation of human rights in Myanmar	34/22
Independent Expert on the enjoyment of all human rights by older persons	33/5
Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967	5/1
Special Rapporteur on the right to privacy	37/2
Special Rapporteur on the promotion of truth, justice, reparation & guarantees of non-recurrence	36/7
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	34/35
Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material	34/16
Special Rapporteur on contemporary forms of slavery	33/1
Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity	32/2
Independent Expert on human rights and international solidarity	35/3
Independent Expert on the situation of human rights in the Sudan	33/26
Independent Expert on the situation of human rights in Somalia	33/17

Mandate title	*Human Rights Council resolution*
Special Rapporteur on extrajudicial, summary or arbitrary executions	35/15
Special Rapporteur on the situation of human rights in the Syrian Arab Republic	S-18/1
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism	31/3
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	34/19
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	36/15
Special Rapporteur on trafficking in persons, especially women and children	35/5
Working Group on the issue of human rights and transnational corporations and other business enterprises	35/7
Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights	36/10
Special Rapporteur on violence against women, its causes and consequences	32/19
Working Group on the issue of discrimination against women in law and in practice	32/4
Special Rapporteur on the human rights to safe drinking water and sanitation	33/10